



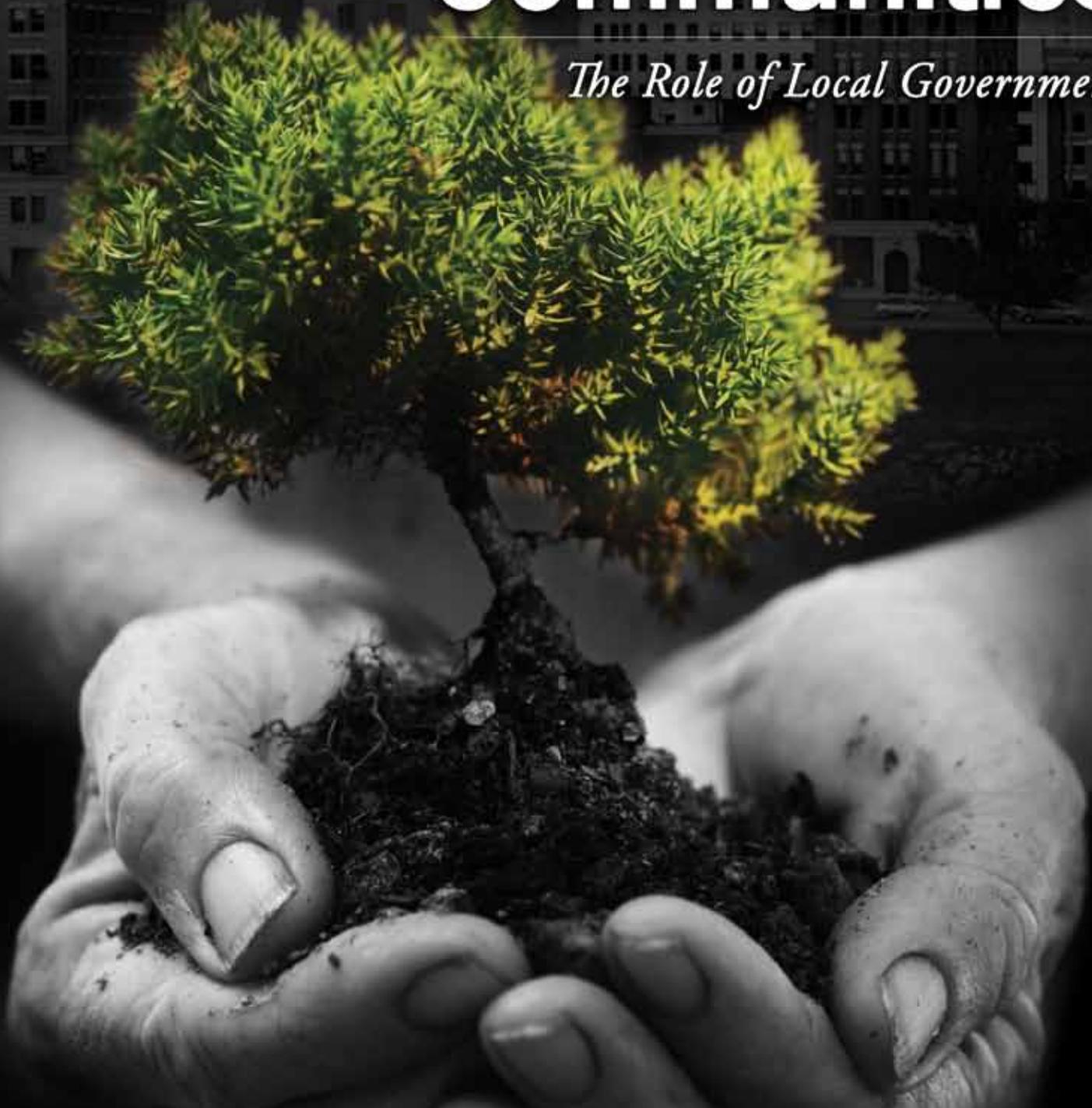
# VIEWS & VISIONS

A publication of Bowles Rice McDavid Graff & Love LLP

Summer 2009

## Cultivating Successful Communities

*The Role of Local Government*



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## Cultivating Successful Communities: The Role of Local Government

Thomas A. Heywood  
Bowles Rice McDavid Graff & Love LLP



FROM OUR  
MANAGING  
PARTNER

Tom Heywood is Managing Partner of Bowles Rice and a former chief of staff to the Honorable Gaston Caperton, Governor of the State of West Virginia. He has significant experience in health care, corporate, finance and commercial law, and is recognized as one of the “Best Lawyers in America.”

Mr. Heywood is active in the community and in various West Virginia business and trade associations. He serves on the boards of many charitable organizations, including Vision Shared, Imagine West Virginia, the West Virginia Venture Connection, the West Virginia Entrepreneurs Forum, Discover the Real West Virginia Foundation, Thomas Memorial Hospital, West Virginia University Hospitals, the Clay Center and the Kanawha County Library Foundation.

How can we nurture and grow successful communities, and what is the role of local government in this process? In this edition of *Views & Visions* we are pleased to share the insights and experiences of leaders from across our region on these important issues.

There is broad agreement that successful communities actively plan for the future, and effectively position themselves for economic opportunity. Many communities across our region are effectively positioning themselves for success.

The stories of several such communities – including Morgantown, Indianapolis, Louisville, Lexington, Parkersburg, Bowling Green, Pittsburgh, Advantage Valley, Charleston and Martinsburg – are found in the pages that follow. Our sincere thanks go to David Satterfield, Howard Mills, Mayor Jerry Abramson, Pam Miller, Ann Conageski, Mayor Elaine Walker, Chancellor Mark Nordenberg, Mark Bugher, Mayor Danny Jones and Mayor George Karos for sharing the stories and plans of these outstanding communities so many of us call home.

The range of services that local governments are called upon to provide is vast indeed. Senator Dan Foster, Charleston Police Chief Brent Webster and Senator Bill Laird each discuss important services that our communities provide, and note both the successes and the challenges in service delivery that all communities across our nation are facing in the 21st century.

So how do we meet these challenges, and position for future success? As Dan Guida reminds us in his thought-provoking article, new ways of thinking are called for.

A lot of new thinking centers around the opportunities that “metro government” may afford to enhance and preserve the things that

make our communities great places to live, while offering better opportunity to compete and succeed in the global marketplace. Senator Brooks McCabe, Kanawha County Commission President Kent Carper, Butch Osborne, Charleston City Council President Tom Lane, Louisville Mayor Jerry Abramson, Pam Miller, Howard Mills and Chancellor Mark Nordenberg each help us better understand the sometimes complex issue that goes by the simple name of “metro government.”

New thinking is also emerging around “home rule.” Bowles Rice partner Kin Sayre and West Virginia Municipal League Executive Director Lisa Dooley offer some history and background on the home rule issue, and help us better understand the status of our current experiment with limited home rule in West Virginia.

Effective local leadership makes all the difference. Patti Hamilton, Executive Director of the West Virginia Association of Counties, tells us about a very exciting initiative of the National Association of Counties to develop and nurture leadership at the local level. We look forward to great things across our region and nation as a result of this focused effort.

There are lots of significant legal issues that pertain to both the theory and the reality of running local government. We are proud to share the insights of Bowles Rice partners John Teare and Todd Myers on legal standards and theory that shape how we in America handle issues of liability and free speech at the local level.

Our communities are essential to the success of each and every one of us. Our local governments are essential to the success of our communities. On behalf of all of us at Bowles Rice, I hope that this edition of *Views & Visions* helps all of us better position ourselves and our communities for prosperity and success in the years to come. Happy cultivating! ♡



## Government for Growth: The Report of the Citizens Advisory Committee on the Efficiency and Effectiveness of City of Pittsburgh – Allegheny County Government

Mark A. Nordenberg, Chancellor and Chief Executive Officer  
University of Pittsburgh

Mark A. Nordenberg is chancellor and chief executive officer of the University of Pittsburgh. In this role, he heads one of the nation's leading public research universities and one of the oldest institutions of higher learning west of the Allegheny Mountains.

Chancellor Nordenberg came to the University in 1977, when he joined the Pitt law faculty. He served as dean of the School of Law from 1985 until 1993 and as interim provost and senior vice chancellor for academic affairs from 1993 to 1994. In 1994 he was elevated to the special faculty rank of Distinguished Service Professor. The University's Board of Trustees elected him interim chancellor in 1995 and chancellor a year later.

Chancellor Nordenberg is an award-winning teacher. He was the first recipient of the University of Pittsburgh School of Law's Excellence-in-Teaching Award, and he was among the first recipients of the Chancellor's Distinguished Teaching Award, recognizing teaching excellence University-wide. His area of scholarly specialty can be described broadly as civil litigation, and he has served as a member of both the U.S. Advisory Committee on Civil Rules and the Pennsylvania Civil Procedural Rules Committee.

Among his many civic activities, Chancellor Nordenberg served as chair of the Citizens Advisory Committee on the Efficiency and Effectiveness of City-County Government. The Committee released its report on April 3, 2008.

In late October of 2006, Allegheny County Chief Executive Dan Onorato and City of Pittsburgh Mayor Luke Ravenstahl asked me to chair a 13-member Citizens Advisory Committee on the Efficiency and Effectiveness of City-County Government. The group's charge was clearly reflected in its name. First, it was a *Citizens' Advisory Committee*. It included no elected officials, and we deliberately avoided the kind of public outreach that we thought could be more appropriately guided by elected officials once our report had been released. Second, it was a *Citizens' Advisory Committee on the Efficiency and Effectiveness of City-County Government*. From the outset, County Chief Executive Onorato and Mayor Ravenstahl made clear that our work should be limited to the units of government that they lead and could not extend to the other 130 municipalities or to 43 school districts that make up Allegheny County.

As the Committee moved forward with its work, we quickly discovered that modern consolidations almost invariably take that form – a merger of the governments of a county and its largest city, with the governments of other municipalities left intact. And, as we concluded in our report, such an approach “can facilitate higher levels of efficiency and effectiveness in local government, while promoting regional unity in an increasingly competitive world, without eliminating the distinctive features of ‘small[er] town governance’ that may be attractive to citizens in some municipalities.”

The Committee also noted that while specific contexts may vary from region to region, any consolidation effort presents a range of challenges. Among the most important are:



## University of Pittsburgh

- Meeting the continuing needs of the urban center
- Ensuring adequate minority representation
- Dealing equitably with current city and county employees
- Segregating legacy costs (including pension and debt obligations)

These same challenges apply to the Pittsburgh region and, in fact, one of the biggest hurdles that would need to be overcome is the concern that consolidation would shift the city's pension and debt obligation to county taxpayers. What our committee found is that there are ways to guard against that, most usually through the creation of an Urban Services District.

The Committee worked long and hard. During our nearly 18-month investigation, we gathered for early morning meetings on a twice-monthly basis; heard from more than 40 individuals with relevant insights to share; participated in a fact-finding mission to the recently-consolidated “Metro Louisville;” and commissioned a RAND study focused on economic development. The Committee also drew on an especially rich body of recent work—the reports of the ComPAC 21 and Competitive Pittsburgh committees and the recommendations of the Commonwealth of Pennsylvania's “Act 47” oversight committee and its Intergovernmental Cooperation Authority—that already has driven certain improvements and can help provide the foundation for further progress.

As the Committee reviewed the history of the region, we found that in 1929 an overwhelming majority of voters actually had approved

the creation of a federated City of Pittsburgh, through the consolidation of the governments of the city and county. Though the charter won the support of 68 percent of voters countywide and also won majority support in 82 of 123 municipalities, it was technically defeated for what was described as a printer's error. The passage of 80 years since that vote is clear support for the observation of Jerry Abramson, the first mayor of "Metro Louisville," that "this business of re-inventing our government is a marathon, not a sprint."

On April 3, 2008, the Committee presented its report to the Mayor of the City of Pittsburgh and the Chief Executive of Allegheny County. The report was prepared to stimulate constructive consideration of the most efficient and effective structures for city and county government as the Greater Pittsburgh region moves to meet the challenges and seize the opportunities that the 21st century will bring. Consolidating the governments of Allegheny County and the City of Pittsburgh also can be viewed as the logical "next step" in an extended process that includes earlier efforts. The Committee also noted that as international connections become increasingly important, there is a growing likelihood that potential global partners will be disoriented and discouraged by the prospect of dealing with multiple local government structures that seem fragmented and outdated.

The Committee viewed its recommendations as achievable steps that would facilitate higher levels of efficiency and effectiveness in local government, while promoting regional unity in an increasingly competitive world. Our report contained three key recommendations:

1. The County Chief Executive and the Mayor of the City of Pittsburgh should further intensify existing efforts to achieve higher levels of efficiency and effectiveness through functional cooperation.
2. The City and the County should enter into a formal "cooperation compact," both to ensure that efforts to partner in the delivery of services are pursued



*Pittsburgh, Pennsylvania*

3. At the earliest appropriate time, the question of whether or not the governments of the City of Pittsburgh and Allegheny County should be consolidated—as a key step in forging unity of leadership and fostering higher levels of regional growth—should be placed before the voters.

Our recommendations were grounded in the shared belief that more must be done, not only to improve the efficiency of local government but, even more significantly, to unify regional leadership. The companion themes, of course, were not new. Indeed, they have been at the heart of regional discussions regarding the improvement of local government for decades.

There are still questions to be answered. Our report identified a series of very basic questions that need to be addressed before consolidation could be affected. Some of those issues were already getting – and continue to get – that kind of careful attention – like the municipal pension issue. If there is a hopeful message, it may come from the history of similar initiatives in other communities. For example, the first Louisville merger referendum was defeated in 1956; a favorable vote did not come until 2000, nearly a half century and many ballots later.

When the report was released, it was strongly endorsed by both the Pittsburgh Mayor and the Allegheny County Chief Executive. That endorsement, as they both expressed it, included a commitment not only to press for the presentation of the consolidation issue on a county-wide ballot, but to press for a favorable result when that vote is taken. It is our shared hope

that the Committee's report contributes to the ongoing efforts to improve government efficiency, boost the local economy and return our region to its historic position of a "classic overachiever." ▽

*A copy of the Committee's report is available at:  
<http://www.pitt.edu/news/citycountyreport.pdf>*



## Metro Government and Smaller Municipalities

The Honorable Brooks F. McCabe, Jr., State Senator  
West Virginia

Brooks F. McCabe, Jr. has been involved in commercial and investment real estate for more than 30 years. He is managing member and broker of West Virginia Commercial, LLC, the successor company of McCabe-Henley, LP. He is also general partner of McCabe Land Company LP, which is active in commercial real estate, land and mineral interests within West Virginia.

Mr. McCabe has been recognized for his efforts in the redevelopment of downtown Charleston's Historic Village District and of downtown Fairmont's Historic District. He is a longtime board member of Charleston Renaissance Corporation and strongly supports the National Trust for Historic Preservation and its Main Street Program. In 1995, Inc. Magazine and Ernst & Young named Mr. McCabe and Rudy Henley as West Virginia Real Estate Entrepreneurs of the Year.

Mr. McCabe formerly served as coordinator of the Comprehensive Housing Program of the State of West Virginia and director of the Disaster Recovery Office, both by appointment of the Governor. In addition, he was assistant to the director for planning and redevelopment in the Office of Federal/State Relations.

He holds a doctor of education degree from West Virginia University, with concentration in planning and community development, as well as a master's of education and bachelor's degree from the University of Vermont.

Mr. McCabe also serves Kanawha County as State Senator in the West Virginia Legislature. He is currently vice chair of the Senate Finance Committee and was previously chair of the Committee on Economic Development.

Metro government is commonly perceived as detrimental to the smaller municipalities located within a county that has consolidated with its principal city. As is often the case, perceptions do not always represent realities upon closer examination. Within a properly conceived and implemented metro government, small municipalities actually have a chance to survive and flourish.

In the April 20, 2009 edition of *The New York Times*, Tom Brokaw wrote an interesting op-ed entitled, "Small-Town Big Spending." He submits that our current uncertain economic times should challenge us to change the inefficient practices and systems that have contributed to our current problems. Further, that we need to focus not just on toxic mortgages, the struggling car industry and the health care system, but also on antiquated public structures, i.e., local government. To quote Brokaw, "Every state and every region in the country is stuck with some form of

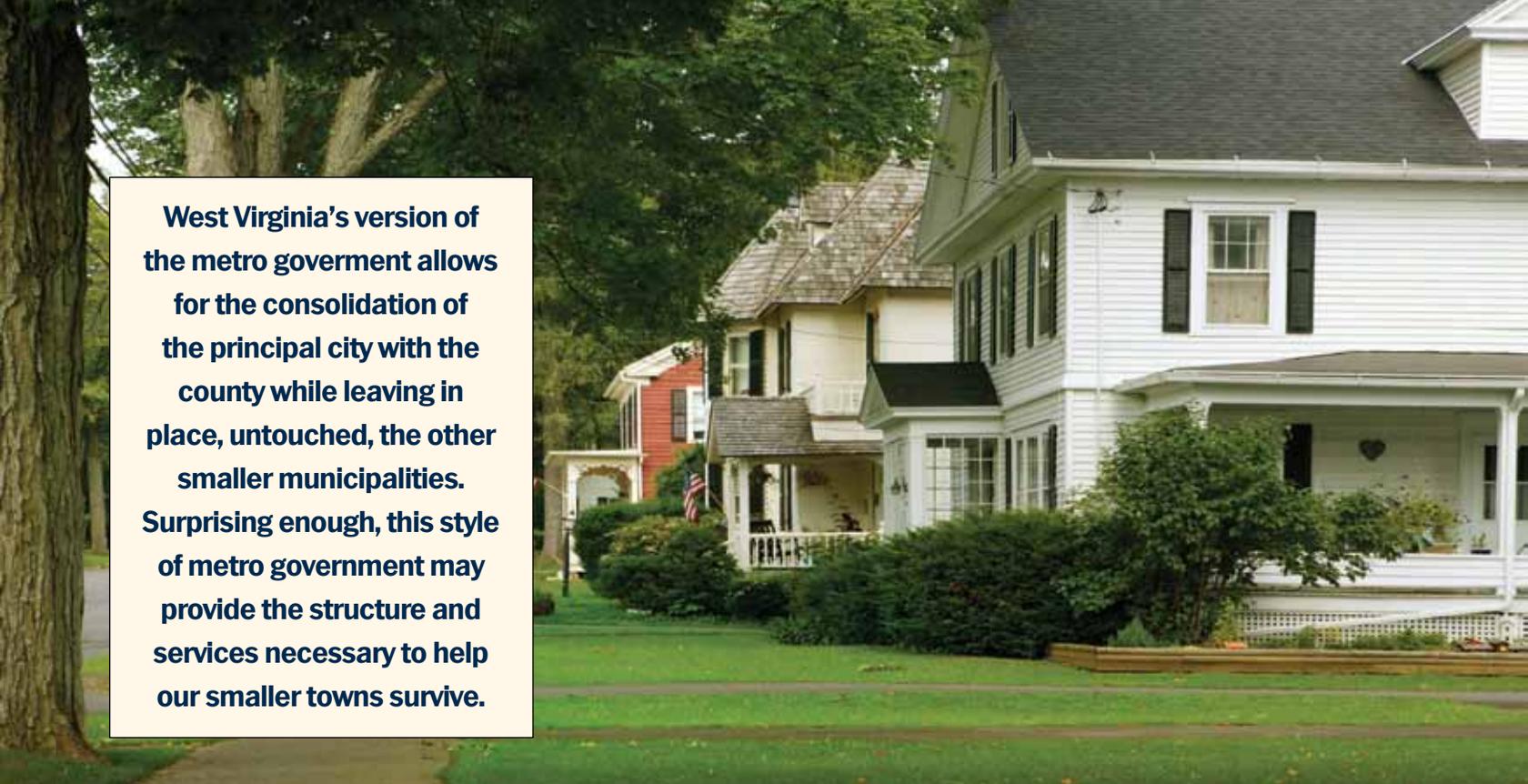


anachronistic and expensive local government structures that dates to horse-drawn wagons, family farms and small-town convenience . . .

It's time to reorganize our state and local government structures for today's realities rather than cling to the sensibilities of the 20<sup>th</sup> century. If we demand this from General Motors, we should ask no less of ourselves."

Small-town big spending is a crisis facing many of West Virginia's smaller municipalities. Preserving the quality of life in our small towns is a daunting task when faced with the rising cost of police protection, refuse removal, maintaining parks and recreation and the looming concerns of "Other Personnel Employment Benefits" (OPEB) which will need to be included on the municipality's balance sheet. An initial response may be that there are too many municipalities, and that they need to be merged out of existence or give up their charters completely. Though true in some cases, this response does not address the quality of life issues and the "small town conveniences," to use Brokaw's terminology, that are the mainstays of small municipalities. These are the reasons why people choose to live in small towns. So, perhaps we need to focus on how to preserve our small town atmosphere while providing affordable services and weaning ourselves away from small-town big spending. Metro government can be part of the answer.

West Virginia's version of metro government allows for the consolidation of the principal city with the county while leaving in place, untouched, the other smaller municipalities. Surprisingly enough, this style of metro government may provide the structure and services necessary to help our smaller towns survive.



**West Virginia's version of the metro government allows for the consolidation of the principal city with the county while leaving in place, untouched, the other smaller municipalities. Surprising enough, this style of metro government may provide the structure and services necessary to help our smaller towns survive.**

By studying budgets of small towns, it is obvious that some of the services and expenses can be contracted with the metro government. There is little question that many of these services can be provided at less cost, if part of a larger delivery system. Payroll, personnel and purchasing are clear examples. Service contracts for police, parks and recreational services, refuse removal and street cleaning are other examples. An attractive feature of metro government is that local governments have the choice of contracting for services, or not. If it makes sense from a financial and service prospective, municipalities will avail themselves to these cost savings and improved services. But there is no requirement to do so. In reality, simple economics will rule over time. Small towns cannot continue big spending. Services will have to be reduced or taxes raised unless there is another alternative. Taking advantage of the economics and efficiencies of a metro government service delivery system could provide this alternative. The process will take time to implement, but the long-term benefits can be real. It is not inconceivable that a small municipality could have no direct employees—thereby eliminating future OPEB obligations—and still provide

key services through contracts with the metro government, all the while keeping its mayor and the elected officials, ordinances and tax structures in place.

Increased representation at the county level is another benefit of metro government to smaller municipalities. Compared to West Virginia's current county commission structure, counties would, by implementing metro government, significantly increase the representation among municipalities and unincorporated areas. As an example, in Kanawha County with a population of approximately 200,000 (with Charleston being the principal city at 50,000), a governance council would have only one quarter of its members, if elected by district, from within the boundaries of the principal city. The remaining 75 percent would come from the other municipalities and unincorporated areas. In Kanawha County, one could assume that Marmet-Chesapeake-Len's Creek, Cedar Grove-Glasgow-Kelly's Creek, South Charleston, St. Albans, Nitro and Dunbar would all have representation on the governing council. Cross Lanes, Sissonville, Elkview and other unincorporated areas would also have a seat at the table. In short, representation

would increase dramatically, especially considering that, historically, most of Kanawha County's commissioners have resided in Charleston. This assumes representation on the governance council is based on population, not an unreasonable assumption.

Just as important is the issue of a metro mayor being elected county-wide. This means the mayor of the Charleston-Kanawha County Metro Council would be accountable to an electorate of 200,000. Although service levels would vary based on the location within the county and the corresponding tax structure, the mayor would need to be ever mindful of how he/she could help the other municipalities and unincorporated areas. Under the current structure, the Mayor of Charleston has little interest in those areas outside of the municipal boundaries because that is not his job. A metro government realigns the interests of the elected officials and there is more reason to work together. Expanded representation improves accountability.

The third reason metro government can help the small municipalities is by

(continued on p. 49)



## Metro Government: A Chance for Unity and Prosperity

W. Kent Carper, President  
Kanawha County Commission

W. Kent Carper is president of the Kanawha County Commission. A native West Virginian, he was an honor graduate of West Virginia State University and a law graduate of Ohio Northern University.

He is a former paramedic and throughout his 30 years of public service, he has worked as Kanawha County Assistant Prosecutor, Public Safety Director/Police Chief of Charleston and West Virginia Deputy Securities Commissioner. He also is a partner in the Charleston law firm of Hill, Peterson, Carper, Bee & Deitzler, PLLC.

He joined the Kanawha County Commission in 1996. As a commissioner, he is responsible for setting the budget for the county, which includes appropriating funds for the Prosecuting Attorney's office, the Sheriff's Department, the County and Circuit Clerks' offices and the Assessor's office.

After years of debate, the West Virginia Legislature has provided all of the counties and municipalities in the state the necessary legislation to enable local governments to explore the efficiencies and improvements that come from consolidation. Now that we have the "metro government" mechanism in place, we are faced with the challenge of forming a consolidated government for Kanawha County and Charleston, West Virginia. The first question everyone needs to ask is—what is metro government?

The first hurdle to overcome to answer this question is the fact that hearing the term "metro government" is part of the problem. It is a confusing and intimidating term. If you look metro government up in the dictionary, you will not find a definition. Without a true definition, it is difficult for one to understand the meaning of metro government. At the end of the day, metro government means different things to different communities. Therefore, we answer the question

by stating metro government is a combination of streamlining government, improving basic services, saving tax dollars, and affording the community an opportunity to compete not only in a regional market, but globally.

The next question is—how do we go about forming a metro government? I believe 25 to 35 percent of the citizens are in favor of metro government, 25 to 35 percent are opposed to metro government, and the rest do not know enough about what it means to form an educated opinion. To address this lack of knowledge we are borrowing a page from the Louisville, Kentucky, playbook. Louisville was the first major city in the past 30 years to merge a city and county government. Quoting Mayor Jerry Abramson of Louisville, "Metro government is the most complex discussion you will ever have with the electorate."

Those who oppose metro government will do their best to confuse the issue and misrepresent facts to benefit their position in the debate. The Kanawha County Commission hosted two trips to Louisville, taking local elected officials, community leaders, business people and concerned citizens to learn firsthand how the City of Louisville and Jefferson County, Kentucky, successfully merged. We learned from our trips about many positive things that we can adapt from the Louisville model with regard to their public education campaign and how the small municipalities were included in metro government while maintaining their identity.

The citizens of Kanawha County and the City of Charleston already have received a taste of the benefits of metro government with the consolidation of services at Metro 911, the Charleston-Kanawha Housing Authority, the Kanawha-Charleston Health Department, the Central West Virginia Regional Airport Authority (Yeager Airport), the Kanawha



County Emergency Ambulance Authority, the Kanawha Valley Regional Transportation Authority (KRT) and the Kanawha-Charleston Animal Shelter. With a full-fledged metro government in place, the tax savings to the citizens will continue to grow as more duplication of services is eliminated.

Small municipalities in Jefferson County, Kentucky, remained independent. The citizens who lived in the former incorporated area of Louisville maintained their services and tax rates, and the citizens who lived outside the former incorporated area of Louisville maintained their services and tax rates as well. No one ended up paying more taxes. In addition, the citizens of all of the municipalities had a voice in choosing their elected leaders. They all were able to vote for mayor and for city council representatives for the districts in which they reside.

A key component to educating the electorate successfully will be the involvement of the business community—large businesses and small businesses alike. If they do not see, understand and support the need for metro government, the challenge of needed public support becomes impossible. One of the first factors a business looking for a new or expanded location considers is the Metropolitan Statistical Area (MSA) of the area where it may want to locate. The minimum MSA consists of a core urban area of at least 50,000 in population. Currently, the City of Charleston encompasses 32.7 square miles with a population of 50,478, and the unincorporated area of Kanawha County encompasses 840 square miles with a population of 88,453.

It is simple: The higher the population of a municipalities' MSA, the better chances a market has in at least getting a new or existing expanding business to consider its area. The current declining population trend of the City of Charleston is working against the goal of getting a business's attention. Without metro government the MSA of the City of Charleston and Kanawha County will continue to shrink,



costing us business opportunities that we will never even know about.

Another significant benefit reported by businesses in Louisville was the one-stop location for all of their business concerns when it came to planning, construction, permits and ordinance compliance. Gone were the days of dealing with the city on an issue and then dealing with the county in a totally different location on the very same issue or running from office to office to obtain information and permits.

The last area to touch upon when we begin to consider metro government is CommUNITY pride. You will note that the word UNITY is a key component of

CommUNITY. If the City of Charleston and Kanawha County continue their declining population course, it is a given fact that other cities in West Virginia, more particularly Morgantown, eventually will overtake Charleston as the largest city in the state; however, bragging rights is not the issue. To compete locally, regionally and globally, Kanawha County and the City of Charleston need to be the leaders they always have been and be the first in West Virginia to form a metro government. ▽



## Lessons Learned in Kentucky

The Honorable Jerry E. Abramson, Mayor  
Louisville Metro, Kentucky

Pam Miller, Former Mayor  
Lexington, Kentucky

Mayor Jerry Abramson is the longest serving Mayor in the history of Louisville. In fact, he's been Mayor of two Louisvilles.

After serving as Mayor of the city for three terms, Abramson helped lead a campaign to merge city and county governments—the first local government consolidation its size in 30 years. Mayor Abramson is now in his second term as Mayor of the new merged city with a population of 700,000, the hub of a region with 1.4 million residents.

Over nearly 20 years in office, Mr. Abramson has changed the landscape of the community in many ways—from reducing the size of government to expanding Louisville's airport; from enhancing the city's park system to attracting new businesses; from supporting the renaissance of downtown to working to raise educational attainment.

A Louisville native, Mr. Abramson received a bachelor's degree in business economics from Indiana University, and a law degree from Georgetown University in Washington, D.C.

Pam Miller graduated from Smith College, *magna cum laude*, in 1960. She worked as a reporter and editor for Congressional Quarterly in Washington, DC and, moved to Lexington with her husband, Dr. Ralph Miller, in 1970.

Ms. Miller served as Deputy Commissioner of the Department for Local Government in Frankfort, and was a member of the Lexington-Fayette Urban County Council for 15 years before being elected Mayor in 1993, the first woman so honored. She served from 1993-2003.

She remains active in civic and governmental affairs and is currently serving on the Kentucky Council on Postsecondary Education.

Jerry Abramson, Mayor of Louisville Metro, and Pam Miller, who served as Mayor of Lexington from 1993 to 2003, recently agreed to share their views on lessons learned during their cities' merger of city and county governments—Lexington in 1972 and Louisville in 2003. For the purpose of this article, each responded independently to 10 questions.

### Describe the organizational structure of the urban county government in your city.

**Abramson:** The new city of Louisville provides services to nearly 700,000 citizens throughout 386 square miles. It was created by the merger of the former City of Louisville and Jefferson County in 2003. The executive branch is led by the mayor and the legislative branch is represented by a 26-member Metro Council.

**Miller:** The Lexington-Fayette Urban County Government is a complete merger of all local services except for the Constitutional officers of County Clerk, Property Valuation Administrator and Sheriff, which have limited powers and duties. There is no longer any county or city government, and there are no incorporated cities within Fayette County. The mayor and council are elected on a nonpartisan basis. The non-partisan government has a strong mayor, elected by all voters. Twelve of the 15 council members are elected by voters in each council district and three are elected at-large by all voters.

### What factors led to the decision to merge the city and county governments?

**Abramson:** The leading reasons for merging city and county governments were improving job creation and economic development and providing more efficient, effective government.

**Miller:** There were two main factors contributing to the “urge to merge,” both related to the burgeoning growth in the county. One factor was the patchwork development of the county which led to poorly distributed police and fire protection in the two jurisdictions. The other was the subdivision and commercial development in the old county and the dire need there for sanitary sewers which the county government was not, by statute, able to build. A significant number of county residents wanted city services for improved health and safety.

## How was the merger accomplished?

**Abramson:** After three failed attempts over a half century, voters finally passed a referendum in 2000. A number of factors influenced the outcome:

- The referendum was strongly supported by a bi-partisan group of leaders that included all living former mayors and county judge-executives.
- The business community, a leading force in previous campaigns, supported a professional campaign.
- Voters were persuaded by the promise of a more efficient government and believed strongly that Louisville needed to speak with one voice to attract jobs and economic development.
- After 13 years of a city-county compact, which formalized shared services such as a combined parks system, many citizens saw the benefits and the successes that unified government can bring.

**Miller:** The merger was accomplished in 1972 with strong progressive leadership from the two political entities and solid support from the news media, print, TV and radio. The neighborhood groups and civic organizations, such as Rotary Club and League of Women Voters, helped.

The support of Mayor Foster Pettit and County Judge Robert Stephens was critical and rather unusual in merger battles. The opposition was surprisingly weak: no organized union, business or minority groups campaigned against it. The farmers and rural residents were generally opposed, but they did not have a strong spokesperson. The popular vote was 67 percent in favor of merger, an amazing majority.

## What services were combined?

**Abramson:** All services provided by city or county government were combined under the new government, except for firefighting and refuse removal. By state law, suburban fire districts remained separate; however, several of them merged with each other. Citizens of the former city, now known as the Urban Services District, pay higher taxes and receive some additional services, including refuse collection and recycling.

**Miller:** The major services of police, fire, parks and engineering were combined. Planning decisions and building inspection also came under one umbrella, leading to better decisions

and enforcement. Refuse collection and sanitary sewer services, formerly provided to city residents, were gradually expanded over 20 years to serve areas of the urbanized county under a tax-for-service scenario, specified in the Charter.

## What offices were eliminated and did any city or county employee lose his or her job?

**Abramson:** No offices were eliminated, but the powers of the county judge-executive and county commissioners were transferred to the mayor and Metro Council. At the same time, the merger of the two governments did give us a chance to streamline government and eliminate duplication at a time when tax revenue was tight. In my first budget we eliminated more than 700 positions, including about 150 filled jobs, which decreased the size of government by about 10 percent. Rising healthcare and pension costs, union contracts and the national economic downturn have put further pressure on our budgets each year. Mostly through eliminating vacant positions, we have gradually cut our workforce by another 10 percent – for a total reduction of about 20 percent.

(continued on p. 48)



*Louisville, Kentucky*



*Lexington, Kentucky*



## Reflections on Metro Government in Indianapolis

Howard Mills, President of Board of Directors  
The Gateway New Economy Council

Howard Mills is president of the Board of Directors of The Gateway New Economy Council. He is a retired executive with extensive national and international business experience. As Chairman of Maplehurst Companies, headquartered in Indianapolis, Indiana, he led the growth of a processing and distribution company serving grocery and food service markets. The firm pioneered processing and distribution of fresh and frozen dairy products and frozen bakery products for in-store bakeries.

Mr. Mills led the company to its acquisition in 1992 by George Weston, Ltd, of Toronto, Canada. (Weston's brands include Girl Scout cookies, Arnold, Boboli, Entenmann's and Thomas' English Muffins.) Mr. Mills contributed to the firm's leading market share in the frozen dough industry and expanded to markets throughout the United States. Mr. Mills's business experience led to his involvement with start-up companies in educational music publishing, gas/convenience stores, retail record stores and fresh specialty products distribution.

His civic commitment includes election to the Town Council of the Corporation of Shepherdstown and treasurer for the town's historic Station at Shepherdstown. Currently, he is a vice chair of the Board of Trustees of Earlham College, from which he graduated. He holds a Master of Business Administration degree from Indiana University.

Reflecting on the metro government experience in my former community of Indianapolis, I would like to share some of the possible lessons learned.

The Indianapolis regional terrain is as flat as a billiard table with no barrier to expansion in any direction. In the 1960s Indianapolis became the hub of an interstate road system with a 52-mile beltway encircling the city. Regional shopping centers quickly appeared at many locations where an interstate connected to the beltway. Where once downtown had enjoyed 80 percent of regional retail sales, these numbers fell to 20 percent and population quickly followed suit.

In 1964, the Mayor of Indianapolis appointed an advisory committee to study the exodus issue. The Greater Indianapolis Progress Committee consisted of city, county, civic and business leaders who were asked to "formulate a program of progress that makes use of the city's full potential." Mayor William Hudnut (1976–1991) later said they, "... laid the



foundations for the emergence of the modern Indianapolis. It might never have been enacted if put to a referendum, because people react negatively to change and have an unwarranted fear of big government." This consolidation followed on the heels of similar efforts in Nashville and Jacksonville, occurring at a time when a fortuitous window for non-referendum reform stood open. Louisville and Jefferson County subsequently consolidated, while Albuquerque, Buffalo, Pittsburgh, Wichita and Kalamazoo have failed to do so. The subsequent opposition is from suburban constituencies and referendum requirements.

### So what are the Lessons Learned?

**First.** Metro government creation, albeit any major change in governance, is fear-inducing. Strong emotional issues are difficult to counter with regional cost savings and enhanced efficiency explanations. One example lies in the Indianapolis Unigov structure. Marion County has four incorporated towns, 11 unincorporated towns, nine township school systems, the Marion County Sheriff's Department and nine volunteer fire departments. Each had a local political base and was unaltered by Unigov. From a voting perspective, citizens voted for a town mayor, the mayor of Indianapolis and a city-county council member.

Unigov promoters proved to be pragmatic, realistic and flexible. It took 36 years of Unigov before additional consolidation could occur. Around 2000, Indianapolis Works was tasked with combining the city police and county sheriff's departments, the fire departments and assessor's offices. Resistance crumbled slowly despite the annual estimated \$15 million of cost savings the additional consolidation delivered.

**Second.** Metro government can, and probably must, be extremely flexible. Compromises



*Downtown Indianapolis, Indiana from the Central Canal*

1970, enrollment in old Center City public schools declined from 120,000 to less than 50,000. So, like in many other places, the old Center City has been losing population. A decline of 100,000 would have eliminated Indianapolis from the Top 50 Most Populous Cities list. Even with Unigov, growth is less than 51,000 persons—all of it occurring in the townships. Without Unigov, the city would have faced declining revenues and services while surrounded by much more affluent, rapidly-growing counties. Revitalization under Unigov has seen professional sports venues constructed and a successful two-block shopping mall with dozens of new restaurants and over 20 hotels now serving the public. A large, modern convention center has been expanded four or five times already.

Hopefully these reflections on the Indianapolis experience have provided some insight into metro government. ▽

must be made in order to give birth to it. Patience is the key to eventually bringing about the required adjustments.

Indianapolis Unigov was born on January 1, 1970, and immediately shifted them from being the 26th largest city in the United States (based on population) to the 11th largest. This change saw them leap ahead of San Francisco, San Diego, San Antonio, Boston, St. Louis, Memphis and New Orleans.

Politically speaking, prior to Unigov the townships were heavily Republican and the city heavily Democrat. Post-Unigov, it took 35 years before another Democratic mayor was elected. Thus, Unigov was

seen as working to the political benefit of the Republicans.

**Third.** It is impossible to please everyone, and governance changes will create some winners and some losers.

Unigov proved to be most effective in matters regarding infrastructure and services. Relatively soon after Unigov, township citizens saw marked improvement in their roads and parks as a result of professional, consolidated management. Despite this enhancement, consolidated protection services still had a lengthy wait.

To evaluate the benefits of Unigov, I try to imagine Indianapolis without it. Since



## Opportunities and Challenges Facing Local Governments

Walter “Butch” Osborne, Chief Operations Officer  
Fairmont Federal Credit Union

Butch Osborne is a 1974 graduate of Fairmont State College. He has 35 years of experience in the financial services industry and currently serves as the chief operations officer of Fairmont Federal Credit Union.

Mr. Osborne served as chairman of Marion County’s Metro Government Study Committee and currently volunteers with several Marion County organizations.

Local governments are like middle management. They get demands and limitations from state governments, and get demands and pushback from their citizens. Managing local government is a great challenge. State government directs local governments to keep your people safe, keep their property safe, keep their streets in good repair, provide them safe drinking water, collect their trash and develop economic opportunities—while you protect your current economic base. Citizens expect all these things to be done by their local government too, but never expect to pay the full cost of the services provided. There is little or no money that can be provided to support all this activity, or even allow a local government to get creative in trying to meet these demands, because the framework they must operate in has been created for them by state law.

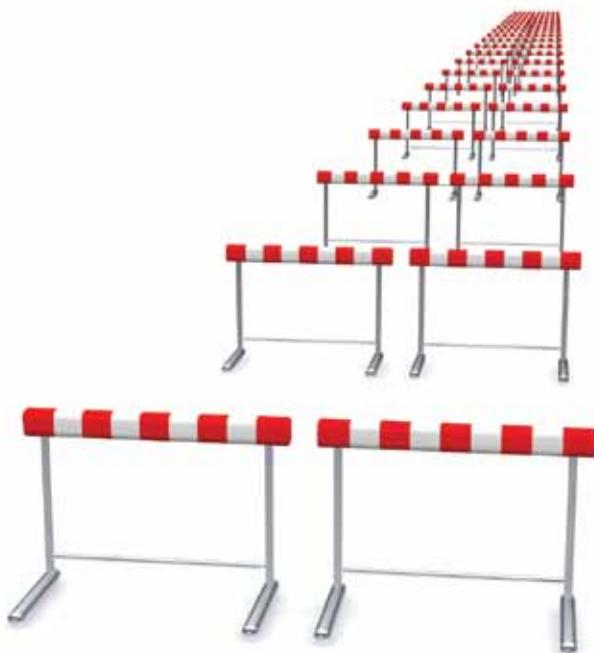
So what are local governments to do? That is the “challenge” facing many local governments around the state. Whether you are a liberal who believes in more government or a conservative

who believes in less government, I think you will agree that we need efficient government. It is my belief that messages have been sent from our federal and state governments that resources are not going to be available to continue to support the large number of small, local, inefficient governments.

**The broader message to all local governments is to look for ways to partner with other local governments and explore other options to become more efficient in delivering the required services to the citizens.**

The broader message to all local governments is to look for ways to partner with other local governments and explore other options to become more efficient in delivering the required services to the citizens. There it is—the “opportunity” facing local governments. During the 2006 West Virginia Legislative Session, legislation was passed and signed into law providing the framework for our 55 counties and 236 municipalities to forge partnering opportunities through forming metro government entities. Other states have done the same thing and have benefited from the formation of larger, more efficient governmental units.

Several communities from all areas of the state have either officially reviewed the process to consolidate or have at least begun the process of discussing the idea. However, in the three years since the legislature acted, we have experienced painfully little progress. Some of the reasons may be contained in a December 2005 Public Opinion Poll conducted by *The State Journal*.



Some of the findings are:

- Fewer than 10 percent of residents believe their government was very efficient.
- This feeling persisted whether they were talking about their local, state or federal government.
- However, they did not see merging governments as the best solution.
- More than 7 out of 10 residents said they worried that a combined city-county government, or a government made of two cities or two counties that merged, would increase their taxes, reduce the amount of police and fire protections or hinder residents' ability to be equally represented.
- 76 percent of the residents polled have read, seen or heard either very little or nothing at all about the idea of metro government. Only 23 percent of residents said they were familiar with the concept.

Some are fearful of change, while others have a significant lack of confidence in our governmental leaders to fairly and

honestly represent our interests instead of their own. As a result, I believe popular support of the opportunities provided by metro government formation will be excruciatingly slow and painful. However, I believe that logic always eventually prevails. As long as we keep focused on the potential benefits and keep talking to each other, we will find the necessary logic to begin to change our mindset.

I believe leaders in one of our 55 counties will find a way to sell the concept that the effects of the benefits greatly exceed any obstacles and will get it done. When this occurs it will open the flood gates of other areas around the state that, all of a sudden, do not want to be left behind. We will get there, and the sooner the better, but business and community leaders cannot just sit back and wait for someone else to do it. We must stay engaged in the discussion. Do not let someone make unsubstantiated statements without challenging them on their proof and strive to educate the citizens on the quantifiable

benefits in providing top quality services at affordable prices to everyone.

Metro government will certainly not be perfect, but it is our future. The statement "change, embrace it or become its victim" certainly applies to this issue. It is long past time for us, as a state, to embrace a change in the way we manage the services we all want and need. The one thing I am sure of is that time is not our ally. The world does not stop for us to catch up. We need to get it together and get on with it. Our Legislature has provided the path, and now we need to follow it. ♡



*Fairmont, West Virginia*



## Charleston Study Considers Benefits and Challenges of Metropolitan Consolidation

J. Thomas Lane, Partner  
Bowles Rice McDavid Graff & Love LLP

J. Thomas Lane is a partner in the Charleston, West Virginia office of Bowles Rice. He practices primarily in the areas of natural resources, coal, oil and gas, commercial real estate, zoning and land development, as well as litigation cases involving these areas.

As the former Robert T. Donley Adjunct Professor of Law at the West Virginia University College of Law, Mr. Lane taught a course in Coal, Oil and Gas Law (1986-2007). He compiled a teaching text on Coal, Oil and Gas and has published numerous articles on matters of energy law.

Tom is President of the Charleston City Council, where he has been an elected member since 1987. He serves on key Council committees, is involved in various special projects from homeless shelters to public safety and has organized and oversees task forces to carry out a city plan on comprehensive improvements.

Tom received his bachelor of arts degree from Washington & Jefferson College and his law degree from West Virginia University. He served in the United States Army, and was a Law Clerk to the Honorable John A. Field Jr., United States Court of Appeals for the Fourth Circuit (1974-1975).

The enticement to provide better service at lower cost makes metro government an appealing proposition. Where attempted in other cities, the concept seems to work well. The poster child is Louisville, Kentucky, where consolidation of Jefferson County, the City of Louisville and the numerous municipalities within the county took place in 2003. Today the consolidation is fully implemented and functioning successfully. Interestingly, voter approval of the consolidation required several elections and much debate before the measure passed.

The champion of governmental consolidation in West Virginia is Kanawha County Senator Brooks McCabe, who authored the legislation which sets the statutory framework and who has spent countless hours arguing the cause statewide.

In the last mayoral election in the city of Charleston, virtually all of the at-large candidates for Charleston City Council supported the concept of metro government and the benefits which could be achieved through consolidation. The campaign promises of those candidates were pursued this spring through a resolution, which passed unanimously, to create a committee to study metro government for Charleston.

**The enticement to provide better service at lower costs make metro government an appealing proposition.**

The resolution was premised on the successful consolidation of services and boards which have already occurred. As an example, the City of Charleston, Kanawha County and other municipalities combined 911 emergency



services into one operation several years ago and it is now known as Metro 911. It is clear that after several years of operation, the services and efficiencies of this combined operation exceed those which could have been achieved by individual government entities acting alone. Additionally, the City of Charleston and Kanawha County have combined their housing authorities and jointly achieved services and efficiencies which might not have been possible through separate operations.

With these successes in mind, the study resolution adopted by Charleston provides that a committee be formed:

*to conduct a broad study of the ways in which the various governmental entities within Kanawha County can achieve greater efficiency and provide better service through combinations, cooperation, mergers, sharing of information and services, and other means. This study should include areas of mutual benefit such as shared costs of stormwater studies; immunity for emergency aid beyond boundaries; creating overlapping jurisdictions for law enforcement and emergency services; shared use of technology and technological services; zoning and land use controls; cooperation on enforcement of drug laws and enforcement and cooperation of other criminal law.*

The nine-member committee formed by the mayor is chaired by Charleston City Council member Marc Weintraub. In its deliberations to date, the committee has explored the procedures for consolidation, the options available to the city and the constitutionality of the legislation which authorizes consolidation. Representatives from Kanawha County and several other municipalities have participated in the meetings, so that all can gain an understanding of the process, the potential benefits and the challenges. In addition, representatives of Fairmont, West Virginia graciously attended the most recent hearing, offering their insight and reasons for their decision to delay consideration of consolidation between Fairmont and Marion County.

The West Virginia statute on consolidation authorizes: the consolidation of cities for a municipal consolidation; allows counties

to merge under a county consolidation; and allows for “metro consolidation” of a county with the principal city within the county. Thus, the technical term “metro consolidation” applies to the Charleston study.

Under legislation passed in 2009, which effectively only applies to Kanawha County, the required vote for creation of a metro government would be 50 percent of the residents of the county. This lowered threshold was passed in an effort to facilitate consideration of a possible Charleston-Kanawha County consolidation.

The Charleston study will consider the many benefits which could be achieved by consolidation, as well as the challenges. The resolution identifies specific areas for study. One example will demonstrate the benefits envisioned. All municipalities

in the state are being required to conduct studies of stormwater and drainage with their boundaries. The study for Charleston alone exceeded \$250,000. Given the terrain and common drainage areas, one of the questions under consideration is whether a combined study for all cities in the Kanawha Valley could produce a better product with substantially lower overall costs to each municipality. Many believe that combining and cooperating on projects such as this is the tip of the iceberg in terms of benefits.

A major challenge facing the Charleston committee will involve the preservation of city ordinances and budget. From this writer’s perspective, the City of Charleston has a healthy business and tax base, has sound planning and zoning policies in place and has many progressive ordinances on the books. In some respects there are cultural differences between the city and the county and the several municipalities in the valley. Preservation of the separate budgets, ordinance and even cultures will be an important part of the debate.

The Charleston resolution calls for a report by September 21, 2009 so stay tuned to learn more about the results of the Charleston study. ∇



*Charleston, West Virginia*



## Home Rule Pilot Program Provides for Municipal Self-Governance

Floyd McKinley Sayre, Partner  
Bowles Rice McDavid Graff & Love LLP

Floyd McKinley “Kin” Sayre is a partner in the Bowles Rice Martinsburg office. He concentrates his practice in the areas of commercial and finance law, tax, government relations, real estate and small business development. He also is a certified public accountant.

Mr. Sayre has been the town attorney for the town of Mabscott, West Virginia, since 1998 and was the city attorney for the city of Beckley, West Virginia, from 1989 to 1996. He is a past attorney for the West Virginia State Tax Department. Kin is a former adjunct faculty member of Bluefield State College, Mountain State University and Concord University.

He authored “*Municipal Law: West Virginia State Bar Practice Handbook*” and has been a presenter for continuing legal and professional education seminars on topics including tax; municipal law, eminent domain, real estate and taxation.

Kin has served on the Real Estate, Zoning and Land Use Committee of the West Virginia State Bar since 1999. He is a former member of the West Virginia State Bar Board of Governors, the West Virginia Ethics Commission and the Young Lawyers Executive Committee. He currently serves on the West Virginia Home Rule Board.

He earned both a bachelor of science degree and an MBA from West Virginia University. He received his law degree from the University of Arkansas in 1986.

Municipal home rule in America is steeped in a history of tension between communities seeking to establish local decision-making and the influence of state governments to control the facets of local governance for the protection of commercial interest. Beginning in the late 1860s, on a national and state level, many individuals and businesses exercised influences on state legislatures to limit the ability of local communities to select innovative initiatives and controls. The result was a constriction of democracy at the community level that prevented local majorities of people from enacting laws to protect and promote local businesses, natural resources and community values.

In 1868, an Iowa Supreme Court Justice, John F. Dillon, wrote an opinion that became the cornerstone of American municipal law when the U.S. Supreme Court adopted *Dillon’s Rule* as the default legal code for municipalities across America .

The rule states:

*It is a general and undisputed proposition of law that a municipal corporation possesses, and can exercise, the following powers, and no other: First, those granted in express words; second, those necessarily or fairly implied in, or incident to, the powers expressly granted; third, those essential to the declared objects and purposes of the corporation not simply convenient, but indispensable.*

The second part of Dillon’s Rule stands for the principle that if there is any reasonable doubt whether a power has been conferred on a local government, then the power has not been conferred. This is the rule of strict construction of local government powers.

Today the need has never been greater for communities to assert local democracy and make choices that carry the weight of law about

the health, safety and quality of life in those communities. State legislators have preempted local democracy by erecting and enforcing municipal codes, land use laws and restrictive legislation that keeps local citizens out of important decision-making processes.

In 2007, the West Virginia Legislature passed Senate Bill 747 that established the Municipal Home Rule Pilot Program. The legislature found that future economic progress for the state was directly related to the success of its municipalities – strong municipalities will make for a stronger West Virginia. The legislature recognized that municipalities faced numerous challenges while managing budgets and delivering services. They are sometimes restricted by the state, preventing them from carrying out their duties in a cost-effective, efficient and timely manner.

Senate Bill 747 gives municipalities the opportunity to participate in a pilot program designed to clarify and increase the powers of municipal self-governance, also known as home rule. By authorizing the pilot program, the West Virginia Legislature gave the state the opportunity to evaluate the viability of allowing all municipalities to have broad-based state home rule. It is the intent of the Legislature, in enacting the pilot program, to establish a framework for municipalities within which new ideas can be explored to see if they can or should be implemented on a statewide basis.

The four cities chosen to participate in the pilot project are Bridgeport, Charleston, Huntington and Wheeling. These municipalities established committees to look at local problems, held public hearings soliciting the local citizenry’s input and determined the best solution to these problems.

One issue that the City of Bridgeport wanted to address concerned participation with the

Harrison County Board of Education on projects for recreational/educational programs and facilities located within the corporate limits of Bridgeport. Based upon an opinion issued by the West Virginia State Tax Department, the City was restricted in its expenditure of funds for projects that might otherwise be construed as the responsibility of the school board.

Charleston, Huntington and Wheeling needed help in fighting a problem that plagues most cities in West Virginia—dilapidated and abandoned buildings. The ability of municipalities to effectively and efficiently deal with this problem is restricted by the lack of flexibility granted by the state legislature. Charleston wanted the ability to assess property owners the full cost of the repair and remediation of the property; under current law the assessment was limited to the assessed value of the property. Huntington's solution was the creation of a land bank program similar to a program adopted by Flint, Michigan. Huntington is currently implementing a process to purchase many

of these properties at delinquent tax sales. Wheeling's request centered upon a vacant building registration program. Each of these cities has looked at the problem and developed a unique solution to address the issues.

Huntington and Charleston also have looked into one of the most controversial issues for federal, state and local governments: Taxation. The single largest source of revenue for most municipalities is the business and occupation (B&O) tax. This tax is based upon the gross receipts of a business.

In the mid-1980s, the State abandoned the B&O tax because of the perception of its anti-business effect. Many municipalities would like to follow the state and repeal the B&O tax. However, before a municipality could consider the repeal of the B&O tax, they would need to have an alternate revenue stream. Possible solutions to replace the B&O tax could be the implementation of a corporate/personal income tax or local sales tax. However, under our current system the local

governing body is prohibited in this reform of their tax structure. Each municipality should be given the local authority to determine which system would work to accomplish the desired outcome of a stable tax structure that allows for growth.

We live in an era of increasingly complex and intricate problems. As citizens' needs increase and the state and federal governments cut back on program funding, municipalities are required to fill in the gaps. Municipalities need to continue to move forward with creative solutions. To accomplish these results, an increase of municipal home rule is needed. ▽



*The State Capitol of West Virginia*



## Home Rule: Not a Four-Letter Word Anymore

Lisa K. Dooley, Executive Director  
West Virginia Municipal League

Lisa Dooley joined the West Virginia Municipal League in 1993 as the executive director. In managing the League, she develops and coordinates training, insurance and financial, legal and technical assistance programs for local officials representing the group before the executive, judicial and legislative branches of both the state and federal government. Prior to this position, Lisa was the operations officer for a locally owned bank in Charleston, and her education and employment history are primarily focused in administration and finance.

She is a member of the Division of Environmental Protection Advisory Council, Governor's Law Enforcement Training Sub-Committee, past board member for National League of Cities and the West Virginia Society for Association Executives.

The West Virginia Municipal League represents West Virginia's 232 cities, towns and villages (collectively, "municipalities") that are home to some 650,000 people. According to 2000 U.S. Census data, Thurmond (population: 7) is the smallest, and Charleston (population: 53,421) is the largest. The 2000 Census also documented 14 West Virginia municipalities with more than 10,000 residents. The League is uniquely positioned to act and function as a point of contact to address municipal issues.

The dynamics between the several states and the federal government of the United States that occupied the founders and continues to underscore national politics is similarly shared in the context of state-local relations. At the federal level, the question is: "How much power is reserved to the states and is it preempted by the national government?" At the state level, the question is: "What powers do municipalities and the municipal official have?" One short-cut phrase for the topic is **home rule**.

A majority of municipal law issues are resolved by answering the underlying question as to whether sufficient powers are delegated to the municipal government from the Legislature. Courts seeking to limit municipalities' implied powers cite what is commonly referred to as Dillon's Rule, expressing: "Municipal corporations owe their origin to, and derive their powers and rights wholly from the legislature." On the other hand, courts are increasingly aware that the West Virginia Legislature often delegates broad, plenary powers to municipalities and statutorily overruled the judicially-created Dillon's Rule, realizing that those serving where the rubber meets the road may understand best how to solve their problems. (West Virginia Code § 8-1-7(a) rejects common-law rule of strict construction). It remains to be seen when the courts will fully recognize this legislative enactment.



Municipal law is not static. Municipalities are a laboratory, testing innovative government ideas that may not necessarily be adopted statewide. What fits in the Eastern Panhandle may not work in Charleston, and to force a one-size-fits-all method on municipalities usually ends up costing the local taxpayer money and puts a halt to development of any kind. In concert with the West Virginia Legislature and the Governor's Office, legislation respecting home rule and metro government represent the active, dynamic political and legal issues of West Virginia municipalities and offer means to find better solutions for municipal citizens and businesses.

The recent West Virginia metro government legislation contemplates the flexible combination of municipalities (including cross combination of municipalities with counties). West Virginia Code § 7A-1-1, et seq., enacts the "Consolidated Local Government Act," in which the Legislature makes findings regarding the fiscal viability of municipal and county governments that are at "their taxable limits"



and the need to “attain high standards of efficiency, economy, service, and flexibility” of local government services. While metro government has been studied intensely by several communities, it has not been utilized to combine any local governments to date. However, this law provides a clear process to explore and ultimately effect combinations and leaves the decision at the local level.

Another potentially sweeping municipal law, enacted in 2007, enacts a “Home Rule Pilot Program” for four select, qualifying municipalities that applied for status as a pilot program participant. West Virginia Code § 8-1-5(a) enacts a procedure and guidelines, whereby the participating municipalities can seek significantly greater powers than are included in general municipal laws. Proposals by the West Virginia municipalities of Bridgeport, Charleston, Huntington and Wheeling were approved by the Municipal Home Rule Board and are being implemented within those municipalities. The Legislature intends to review these municipal experiments

and “evaluate the viability of allowing [all] municipalities to have broad-based state home rule to improve urban and state development.”

As home rule may qualify as the cornerstone of the League’s mission to its members, we are pleased to watch the

**Municipal law is not static. Municipalities are a laboratory, testing innovative government ideas that may not necessarily be adopted statewide.**

pilots develop programs that reach over and around the sometimes bureaucratic arms of state agencies to prove that “there just may be a better way to skin a cat.” These innovative, developing programs are grounded in common sense, business friendly approaches and fiscal responsibility. Businesses are heralding

the reduction of paperwork and the streamlined processes that are emerging from the pilots. Citizens are attending council meetings in these cities because they see positive change coming. All this energy sparked by four pilot cities testing the notion they have had for years. Home rule empowers citizens and businesses, not government.

Notwithstanding the Home Rule Pilot Program or metro government legislation, the classic Federalism-type dynamics between state and local powers will continue to evolve as West Virginia municipalities, in conjunction with the state, seek economic progress, government efficiencies and expanded government services. If necessity is the mother of all inventions, then home rule may surely be the means for successful municipal government. There is no need to whisper home rule any more ... it is not a four-letter word. ▽



## Pension Liability Issues Need Comprehensive Solution

The Honorable Daniel S. Foster, State Senator  
West Virginia

Dan Foster was born, raised, and educated in Oak Ridge, Tennessee. After completing his surgical residency in New Orleans, Louisiana, in 1979, he and his wife moved to Charleston, where he practiced general and vascular surgery until 2002. At that time he took on the newly created position of physician advisor at Charleston Area Medical Center, a role he continues to enjoy.

Dr. Foster has had the privilege of representing Kanawha County as a member of the West Virginia House of Delegates from 2003 to 2005 and as a State Senator from 2005 to present, during which time he has served as the chairman of the Senate Committee on Pensions.

The day of reckoning is just around the corner. As chairman of the Senate Pensions Committee, it is obvious to me that West Virginia's municipalities find themselves in the midst of a perfect storm with their police and firefighters' pension liabilities. These promises, made to hardworking public safety employees, have the potential to create financial ruin for many of our larger cities.

Unlike the private sector where defined contribution plans, including 401(k) programs, provide the vast majority of retirement benefits, 90 percent of all public employees nationally are still covered by defined benefit pension plans. All over the country a high number of these public plans are now on the verge of insolvency. Amazingly, the financial status of West Virginia's state plans, despite the recent economic downturn, has improved dramatically over the last five to ten years, largely because of prudent budgetary decisions made by the Legislature and the Administration. Yet our municipal police and fire plans, with few exceptions, remain dangerously underfunded. In fact, when combined, all 53 West Virginia plans are less than 22 percent funded, with a total unfunded liability of nearly \$700 million. Huntington and Charleston alone account for more than \$300 million of this deficit.

Unless something happens, in light of the existing retirement debts and benefit structure, the City of Huntington appears headed for default, and others are not far behind. This could

have serious consequences for both the financial future of Huntington and likely the state's bond rating. How did we get here? The simple answer is that over the years too much was promised and too little money was put into the system for these obligations, but the more complicated answer contains many subplots.

Although there is still some debate, it appears that West Virginia law mandates that Class I and II cities that have professional fire and police departments must have pension plans. The law also requires that the benefits regarding age at retirement, years of service, calculation of the level of the annuity and cost of living adjustments be at a certain level. Unfortunately, even as these unfunded liabilities for many of the plans have increased, some municipalities, because of assumed public safety needs, have continued to hire police officers and firefighters.



In addition, many cities that were struggling with their actuarially-determined unfunded liability contributions convinced the Legislature in the early 1990s to allow an alternative contribution method. This enabled these municipalities to fund these liabilities in a way that maintained their budgets, but further increased the accumulated debt. Sadly, but not surprisingly, about 70 percent of West Virginia cities and towns took this option after the State offered it to them.

Adding to the monetary dilemma, the overall investment return for these plans has been much below that expected for two reasons – the



sustainability for each and every one of these plans. There is no perfect answer, but a basic framework for compromise is emerging.

First and foremost, because of the shared accountability, there will need to be shared pain. With this in mind, a higher level of oversight will be required to minimize administrative indiscretions. Benefits will almost certainly have to be altered to be more economically sustainable, thus preventing the digging of another fiscal hole. As the other part of this grand bargain, since most cities and towns, if unassisted, may not have the funds to provide both a minimum level of services and the required debt service, the state will likely have to collaborate with municipalities in sharing the burden of paying down the unfunded liabilities that have been created by these sins of the past.

The time is here. We cannot simply kick the can down the road any longer. ♪

Legislature has not permitted adequate investment flexibility for these funds, and many of the local pension boards have ignored even the limited options they do have and invested much too conservatively for the long term. Also, unbelievably, almost 14 percent of the state money that had been directed to these plans from the state insurance premium tax was redirected almost 15 years ago to the teachers' system. Finally, although hopefully rare, there have been some abuses regarding board determinations of both regular and disability retirement awards.

Ending this impasse is a huge political and budgetary challenge, and this dynamic has undeniably contributed to a continuing delay in action. Perhaps the greatest barrier

has been acceptance of the fact that there is clearly a shared accountability for this crisis with enough blame to go around for the municipalities, the state, and police and fire groups that are represented on the pension boards. Despite the fact that it has been a struggle putting all the pieces together for the last few years, there now appears to be an added sense of urgency precipitated by Huntington's aforementioned dire financial situation.

Although we may be presented with a short-term fix that will delay the inevitable and buy us some time, we should not miss the opportunity to find a comprehensive solution that will provide for a decent retirement for all these loyal employees, while assuring long-term financial



## How Green is Your Valley – and Your City?

The Honorable Elaine Walker, Mayor  
Bowling Green, Kentucky

Mayor Elaine Walker took office on January 1, 2005 and is the 39th mayor of Bowling Green, Kentucky. She was recently named by MSNBC as one of the nation's 15 "greenest" mayors.

She and her husband relocated to Bowling Green, Kentucky from California in 1993 to raise their family. She is a co-owner of Peridot Pictures Corporation, the largest producer of national television programming in the State of Kentucky, and hosted a local access television show, "Spotlight on Bowling Green," for nine years prior to her election as mayor. She received her education at the University of Maryland.

She serves on numerous committees and boards including the U.S. Conference of Mayors Trustees, several National League of Cities committees and serves as second vice president of the Kentucky League of Cities Board of Directors.

Every two years the City of Bowling Green, Kentucky, conducts a survey of citizen issues and concerns. Each time, the top issue remains the same—traffic. As a former resident of Los Angeles, California, I am somewhat taken aback by the perception that Bowling Green traffic is a problem, but everything is relative. And certainly main roads are consistently clogged during morning and evening rush hours.

So how do you go about solving the traffic issue? The traditional approach is to build more roads or add more lanes. For years we have worked with the state and federal transportation departments to plead our case for a greater investment in our transportation infrastructure. We have invested millions of dollars to widen city streets and create ancillary roads. And yet, time and again, every survey reveals that traffic congestion is the number one concern.

Finally, I realized that while new streets and added lanes were part of the solution, they simply could not be the only solution. Instead, we needed to "rethink transportation" and find a way to involve our citizens. We needed to acknowledge that every time we drive our vehicle, alone, during rush hour, we are part of the problem, and that we all need to be part of the solution. In short, we need to better use the streets and roads we already have.

"Rethinking Transportation," a task force component of the Bowling Green/Warren County Metropolitan Planning Organization (MPO) is looking at ways to encourage ride sharing and creating a "Guaranteed Ride Home" fund to ensure that any carpool participant can receive reimbursement for a trip to pick up a sick child or respond to a personal emergency. The task force is also exploring flextime, cyber-commuting, and alternative forms of transportation, including mass

transit. Funding for this program will come from a portion of our Energy Efficiency and Conservation Block Grants.

The potential benefits of this approach are multi-dimensional. We can reduce traffic congestion, reduce consumption of foreign oil, save commuters gas money and reduce our carbon footprint. This approach is not just good for our quality of life, it is good for our environment. I would argue that this is an example of why it is critical that all cities "think green."

In 2005, Seattle Mayor Greg Nickels was frustrated by the federal government's lack of leadership on achieving the objectives of the Kyoto Protocol. He called upon his fellow mayors to sign onto the Mayors' Climate Protection Agreement, indicating that cities will lead the way in reducing our carbon footprint. This agreement calls for cities to move toward achieving the goals of the Kyoto Protocol. To date, 956 mayors have signed onto this agreement. But even now, there is push-back in many cities.

I contend that the Mayors' Climate Protection Agreement is a major step toward sustainability nationwide. Once we identify clear-cut goals and objectives, it is much easier to achieve them. Even small, incremental steps move us forward. Unfortunately, the United States has taken far too long to embark on this journey.

Cities large and small can begin the process by conducting an energy audit of their own facilities. The cost for the audit is recouped with energy savings realized by implementing simple steps such as replacing incandescent lights with compact fluorescent bulbs, caulking windows, installing more energy-efficient appliances and HVAC units and purchasing more energy-efficient vehicles.

New construction should also be more energy-efficient. Our newest fire station addition is being constructed of insulated concrete forms (ICF) that are projected to save us dramatically in heating and cooling bills, helping to offset the additional cost of construction.

Through the Kentucky Clean Fuels Coalition, Kentucky is taking the lead in biodiesel fuels, which are fuels derived from a wide range of vegetable oils and animal fats. The coalition was established to improve air quality, promote the use of green fuels and educate the public about evolving green techniques. Thus far, more than \$7 million dollars have been raised for projects in Kentucky.

Kentucky cities are also part of "America's First Biofuels Corridor." From the Great Lakes to the Gulf Coast, Americans now have the opportunity to travel the entire I-65 corridor on alternative fuels. The 886-mile corridor stretches through Indiana, Kentucky, Tennessee and Alabama.

Inspiration from communities making opportunities out of challenges is all around us:

- In the mountain town of Evarts, Kentucky, for instance, ATV enthusiasts have reclaimed old coal mining land and created ATV trails. This beautifies the environment, keeping these spaces green, and generates revenue through tourism in the area.
- The City of Louisville is already operating 12 public buses with biodiesel fuels.
- Western Kentucky's Mammoth Cave, a national park and the world's longest cave, is the first of 385 national parks to be 100 percent alternatively fueled. The park uses biodiesel and other non-fossil fuels for its energy, vehicles, backhoes and even lawn mowers!

Communities are learning that green solutions can not only save the environment but can also save money.

Several Kentucky school districts are using B20 biodiesel fuel and not only reducing carbon emissions, but increasing the amount of time needed between oil changes. Biofuels actually help to clean the engines.

Taking energy conservation even further, the newest Warren County school under construction, Richlandville School, is

## AMERICA'S FIRST BIOFUELS CORRIDOR



being built using ICF blocks, geothermal, hydro-temp HVAC high efficiency heat pumps, solar panels, lighting tubes and lighting shelves. The windows and roof have also been designed with energy-efficient concepts. All lighting within the interior also will have automated dimming and off capabilities. The Richlandville School will be the nation's first net zero energy school building.

Our city and county schools created interactive energy displays that will allow students to view how much energy they are consuming and modify their behavior

to reduce that consumption. What great lessons the students will inevitably take home and share with their families.

The time is right for a paradigm shift in our national and local thinking. For too long we have been a nation of consumers, subsidizing the personal automobile to the detriment of public transit and rail service, enacting tax codes that reward consumption rather than conservation and encouraging urban sprawl. As parents, we have often contributed to this mindset by insisting that we drive our children to and from school, sometimes waiting for an hour with the engine idling until school is out, burning gas and polluting the very air our school children breathe. We subsidize individual parking spaces for employees, but don't bother to subsidize bus passes.

I was pleased to sponsor a resolution at the U.S. Conference of Mayors in June, which calls for the greening of the tax code. This measure will allow cities to create "green zones" where tax incentives will encourage green development and provide preferences to technologies and investments that reduce the emission of dangerous greenhouse gases, while eliminating or reducing those tax preferences that result in such emissions.

We all can be conservation leaders, at home, at the workplace and in city hall.

In Bowling Green, our green journey began on the road to solving our traffic challenges. For other cities, it may begin with recycling, water or energy projects. As in the natural world itself, all these efforts will eventually merge to build stronger, healthier community systems. But whatever the journey, it begins with one step. ▽



## Eastern Panhandle's Growth Stimulates Development and City Projects

The Honorable George Karos, Mayor  
Martinsburg, West Virginia

George Karos is currently serving his third term as mayor of the City of Martinsburg, having first been elected in June 2000. He served on City Council for 26 consecutive years prior to this election.

Mr. Karos is owner and operator of Patterson's Drug Stores, Inc., located in Martinsburg and Inwood, West Virginia. In addition to many civic awards from numerous organizations, he also was awarded the "Small Businessman of the Year" in 2005 by the Martinsburg-Berkeley County Chamber of Commerce, "Mayor of the Year" in 2007 by the West Virginia Municipal League and "Public Official of the Year" in May 2009 by Main Street Martinsburg.

Mr. Karos is a native of Martinsburg, attended Shepherd College and received his bachelor of science degree in pharmacy from the Medical College of Virginia, School of Pharmacy in Richmond, Virginia. Prior to receiving his degree, he also served in the United States Navy as a hospital corpsman with the rank of 3/C Petty Officer.

His professional affiliations include president of the West Virginia Board of Pharmacy, as well as serving on bank boards and a variety of civic boards and commissions in the community.

Over the past several years, the city of Martinsburg, West Virginia, and the surrounding Berkeley County and Eastern Panhandle region have been blessed with tremendous growth. New businesses, particularly the commercial, retail, service and tourism sectors, have located to our region. The housing industry, although slow due to current economic conditions, flourished since the early to mid-2000s. Federal government facilities also have located operations in Martinsburg and the Eastern Panhandle, thus creating or expanding Class A office space.

**Over the past several years, the city of Martinsburg, West Virginia, and the surrounding Berkeley County and Eastern Panhandle region, have been blessed with tremendous growth.**

Blessed by our proximity to the Washington, DC, and Baltimore, Maryland, metropolitan areas and the accessibility to Interstate 81, Martinsburg, Berkeley County and the Eastern Panhandle continue to attract business and industry. Several industrial parks, located along the I-81 North/South corridor and overseen by the Berkeley County Development Authority and the Eastern West Virginia Regional Airport Authority, continue to flourish with industry and warehousing.

This economic development and population growth has allowed Martinsburg's economy to grow, thus providing additional revenue sources for the city. The City of Martinsburg has taken advantage of this growth to continue to stimulate development and city projects.

For instance, working in conjunction with Main Street Martinsburg, the downtown historic business district continues to thrive with new

businesses, restaurants, art galleries and specialty shops. Main Street Martinsburg also sponsors numerous outdoor events annually, which draws thousands of visitors to our community.

The City of Martinsburg also has contributed to the growth of downtown by developing the Caperton Station Intermodal Transportation Center and the Caperton Station Office Suites. The City also has finalized the Downtown Plan and Parking Garage Study, secured a grant to redevelop the Town Square and completed the design of a Gateway and Wayfinding Signage Program. The City also is in the initial design phase for a new police headquarters and judicial complex, to be located adjacent to the existing downtown City Hall.

One of the most important economic development projects currently underway for the City is the final design of the Raleigh Street Extension Project. Construction for this project is slated to begin in late 2009 or early 2010. This



*The historic business district in downtown Martinsburg*

transportation corridor will provide a new north and south route, thus relieving traffic congestion, providing for better public safety (police, fire/EMS) and allowing for economic development opportunities.

The City also continues to work with various developers in marketing their properties for economic development. Strategic economic development proposals are located along the I-81 corridor between exits 12 and 13, where 750 acres were annexed in 2001. Other economic development opportunities are proposed for the areas of Route 45/Apple Harvest Drive, Meridian Pointe and the former Interwoven Mills properties, to name a few. Working with the Government Services Administration (GSA), the City has been very successful in attracting federal government operations into new or renovated Class A office space in Martinsburg.

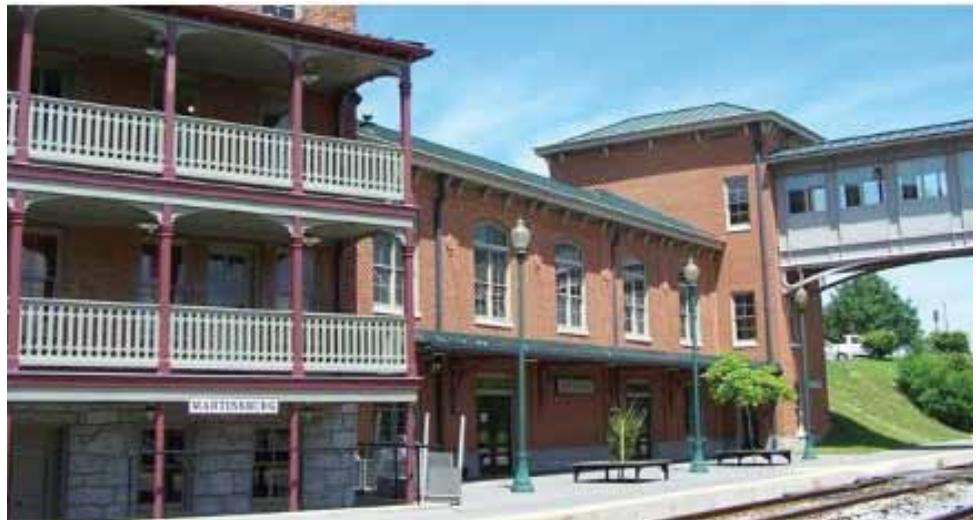
Along with economic development and population growth also comes an increase in the demand on government services. The current state of the national and local economies also will play a key role in future planning of budgets and projects.

Government entities in Martinsburg, Berkeley County and the Eastern Panhandle will continue to be challenged over the next several years to provide adequate transportation improvements, such as new roadways, public transportation (bus and rail service), as well as pedestrian and bike paths. The new four-lane Route 9 from Charles Town to Martinsburg is near completion, portions of I-81 have been upgraded to six lanes and the Raleigh Street Extension Project is about to commence. However, there are additional transportation-related projects that will need to be completed to allow continued economic development, housing and job creation in our region.

As our region continues to grow, additional public water and sewer infrastructure improvements also will be needed. Several governmental entities in the Eastern Panhandle will be required to meet the Chesapeake Bay nutrient-reduction standards.



*The Federal Building located in Downtown Martinsburg*



*The Caperton Station Intermodal Transportation Center*

Governmental entities in the Eastern Panhandle also will strive over the next few years, due to the economy, to ensure budgets are adequate to provide essential services such as police, fire/EMS, street services and administration. Capital improvement projects will also have to be properly planned and budgeted.

In closing, Martinsburg, Berkeley County and the Eastern Panhandle will continue to experience growth, attracting new businesses and visitors. As this growth

occurs, the Eastern Panhandle region will continue to provide an attractive quality of life with a myriad of historical sites, tourist attractions and recreational opportunities. The Eastern Panhandle also provides for a variety of higher educational opportunities.

The City of Martinsburg, Berkeley County and the Eastern Panhandle invite you to visit us to experience firsthand our unique and wonderful business and tourist attributes. ♡



## Destination: Economic Development 101

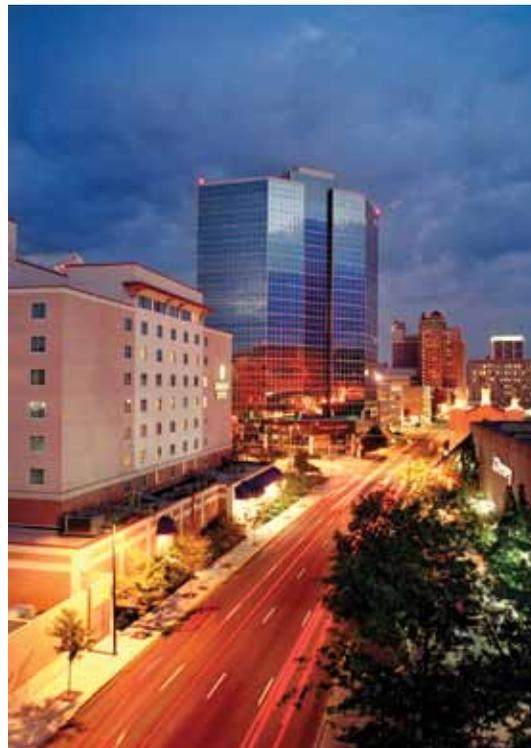
The Honorable Danny Jones, Mayor  
Charleston, West Virginia

Mayor Danny Jones encourages citizens of Charleston, West Virginia, to “follow your passions” and, as a result, West Virginia’s capital city is experiencing some of its most dynamic and results-oriented leadership in years. Working with community groups, a city council of dedicated community leaders and volunteers who follow their passions for various causes and projects, Mayor Jones leads a city of people working to make Charleston the cultural, recreational and business capital of Appalachia.

In addition to his service as mayor, Danny Jones has served as Kanawha County Sheriff, a member of the West Virginia House of Delegates, communications director for the West Virginia Department of Transportation, as the director of Kanawha County’s 911 Center, the City of Charleston’s Refuse Department and the city’s Emergency Services Department. He enjoyed success in the private sector as a popular radio talk show host and restaurateur.

Charleston is the perfect destination for conferences, conventions and sporting events. Our city offers a unique setting—the first-class meeting facilities of a cosmopolitan city, with the comfort of West Virginia tradition and hospitality.

I am blessed to be the Mayor of my hometown. Ours is a vibrant city with friendly people, varied activities and enticing amenities. Events such as FestivALL, Rod Run & Doo Wop, Live on the Levee, Multifest, Smoke on the Water Chili Cookoff, Blues, Brews & BBQ, and many others showcase Charleston as an energetic city. When Charleston hosted the World’s Strongest Man competition in 2008, people from all over the world discovered our city and expressed their enthusiasm and appreciation for the fun and friendliness they found here.



*Downtown Charleston, West Virginia, from Lee Street*



For people with a passion for shopping or fine dining, special places like the Charleston Town Center Mall, Capitol Market, Bridge Road shops and downtown village district offer both shopping and dining among national chains and locally owned shops and restaurants. Visitors will also find a variety of historic, scenic and entertaining attractions.

Charleston is the gateway to all of West Virginia. Not many cities can offer skiing, whitewater rafting, ATV trails, rock climbing, mountain biking, canoeing, kayaking, hiking, golf and so much more, all within a manageable distance.

One of the best things about doing business in Charleston is that major downtown hotels and meeting facilities are located within walking distance of each other and many dining and entertainment options. With so many accommodations and meeting spaces close by, Charleston can host major conventions that require multiple activities or seminars.

My administration has focused much effort on marketing Charleston as a convention destination. Working with the Charleston Convention & Visitors Bureau (CVB); we have



*The Charleston Civic Center, located on Quarrier Street in downtown Charleston, West Virginia*

watched the economic impact from such meetings steadily grow. In 2008, Charleston hosted 55 meetings, utilizing 60,609 room nights. The economic impact was \$28 million, a 43 percent increase over 2007. To date, we have booked 61 meetings for 2009. These meetings utilize 49,637 rooms for an economic impact of \$28.5 million.

How do we sell Charleston as a perfect meeting place? We utilize a variety of tactics. Our “Bring It Home” campaign urges residents to work with the CVB to encourage organizations and societies, of which they are members, to hold their conferences, conventions and events in Charleston. In the past year, the “Bring It Home” campaign has been responsible for over \$13 million in economic impact. We could have never attracted the World’s Strongest Man competition without the help of Phil Pfister. Kathy Knighton’s Celebrating Connections meetings have an economic impact of over \$1 million. Trey Frame, who has a

passion for jet ski racing, is responsible for the Toyota Governor’s Cup Jet Ski races and Pro Beach Volleyball games in August 2009 on Magic Island. These events will have an economic impact of \$1.1 million.

Throughout the year, the CVB staff and local hoteliers attend trade shows around the country to meet with event planners and share the benefits of locating their conventions in Charleston. The CVB also markets Charleston in magazines and trade publications to target specific markets. Our message is clear—Charleston is convenient, safe, affordable and accessible, and our service is the best in the business.

What does this mean for Charleston? At a time when so many downtowns are facing severe financial crises, Charleston has been fortunate to enjoy a growing economic impact from conferences, conventions and events. At a time when many convention centers are facing

financial downturns, Charleston’s Civic Center needs to expand and improve to keep up with the growing demands for that facility.

As I have said many times, the Convention & Visitors Bureau is one of Charleston’s best economic development tools. 



## Morgantown’s Planning, Collaboration, Vision and Leadership: Key Ingredients for a City’s Success

David C. Satterfield, Director of Asset Development  
Office of Research and Economic Development, West Virginia University

David Satterfield is the director of asset development for the Office of Research and Economic Development at West Virginia University. In addition to his administrative duties, he also teaches courses in the Entrepreneurship Studies Program in the College of Business and Economics.

Mr. Satterfield formerly served as the executive director of the West Virginia Development Office, where he was responsible for focusing on building strong communities; recruiting new investment; strengthening and retaining existing industry; enhancing entrepreneurial opportunities and building small businesses.

Prior to joining the Development Office, Mr. Satterfield served as the chief of staff and vice president for Institutional Advancement at West Virginia University in Morgantown, West Virginia. In this capacity he functioned as chief advisor to the University president, David Hardesty.

When Governor Bob Wise was elected in November 2000, Mr. Satterfield served as director of the transition team until January 2001, at which time he became the Governor’s chief of staff. He returned to his post at the University in May 2001.

Mr. Satterfield has been active in education reform since 1992, when he was appointed by then Governor Gaston Caperton to study post-secondary education in West Virginia as part of the Higher Education Advocacy Team (HEAT). A native of Pittsburgh, Pennsylvania, he earned two music degrees from WVU.

**“Morgantown has Nation’s Lowest Jobless Rate”**

– The Associated Press <sup>1</sup>

**“Why College Towns Are Looking Smart”**

– The Wall Street Journal <sup>2</sup>

**“In West Virginia an Economic Oasis”**

– NBC Nightly News with Brian Williams <sup>3</sup>

**“Once a Sleepy College Town, Morgantown MSA Can Claim Lowest Jobless Rate in the U.S.”**

- Martinsburg Journal <sup>4</sup>

These headlines and broadcast coverage, from CNN to CNBC, are impressive. They are humbling and they make all Morgantown residents swell with a sense of pride. Why? Because they are about our town, the place where we work, reside and raise our children.

Perhaps most impressive is the fact that the headlines are well deserved. They are a product of many years of planning, collaboration, superb leadership, hard-focused work and willingness for many parties to join in sincere, meaningful and sustained conversations about a place we live and love.

For nearly two decades, the Morgantown area has been engaged in various planning exercises which have reaped the many benefits we enjoy today. As I spoke with people who have been engaged with the process over these many years, each time they returned to a familiar theme of collaboration, and one of aspiration. And the theme of aspiration was credited to a singular meeting that occurred about 20 years ago.



*The Marina Tower at the Waterfront*

### A Challenge to Aspire

Early in the first term of West Virginia Governor Gaston Caperton, a contingent of city, county, University and business leaders met with the Governor to request his assistance with a project to widen South University Avenue (now known as Don Knotts Boulevard) from a two-lane to a four-lane road. Governor Caperton was helpful, but perhaps his greatest contribution was a challenge he presented to the assembled leaders. Basically he asked them to think bigger than just a road. He pointed out that Morgantown had not achieved the successes that he thought were attainable. He pointed to numerous assets and asked whether we had successfully maximized their value. He urged those present to aspire to make our city great by working together on all the issues, every day, in a meaningful manner to make our community and region greater than it was that day.



*The Caperton Trail with new City of Morgantown playgrounds, located at the Waterfront*



*The Boathouse Bistro, located at the Waterfront*

process to address some of the major issues of concern. I credit this process as a keystone activity that not only showed our region the wisdom of planning, but also provided us a sense of confidence that by planning and working together, much could be accomplished.

### **Visioning**

Today the Community Visions Foundation continues the work begun with those earliest efforts. Its website describes the planning evolution which has taken place:

*“The visioning process began in Morgantown in 1989 with Vision 2000 which has evolved into Vision 2020. This remarkably successful visions program is recognized for its involvement in community development projects such as the Morgantown waterfront and the Caperton Trail, but the program also focuses on recreation, education and the arts. Vision 2020 is comprised of a number of active committees who address different aspects of community development including the Monongahela River Recreation and Commerce Committee and the Arts Collaborative.”<sup>5</sup>*

Our region owes a great debt of thanks to the Morgantown Chamber of Commerce for having led this process for 20 years. With Vision 2000/2020 well established as the “default” planning council, other planning and program initiatives also have taken shape.

### **Concrete Progress**

These activities are making a clear difference in the overall climate and environment in Morgantown. You see the progress every day, whether it be a new business moving to the area, the new streetscapes and improvements on High Street or the construction of WVU’s new Honors Residence Hall, currently being built in the heart of the Sunnyside neighborhood as part of The Sunnyside Up Project.

Perhaps the most impressive project resulting from having representatives

From all accounts, his message was heard and understood. Rather than just pass the challenge off as well meaning advice, leaders took his message and began to aggressively act on it.

The stage was set so that with the key stakeholders at the table, many of

Morgantown’s large challenges could be addressed and, at the same time, the emerging opportunities of our region could be seized.

With key assistance provided by the Morgantown Chamber of Commerce, we began a deliberate and thorough planning

(continued on p. 50)



## Local Law Enforcement and Public Safety Challenges

The Honorable William R. Laird, IV, State Senator  
West Virginia

William Laird IV was elected to the West Virginia State Senate in 2008. His prior legislative experience included two terms in the West Virginia House of Delegates, representing the citizens of the 29th Delegate District. Mr. Laird is perhaps best known for his work career in county government. He was elected and served as a magistrate in Fayette County and served an unprecedented four terms (16 years) as Sheriff of Fayette County.

Bill Laird began his career in government in 1978 with the West Virginia Department of Corrections. In 1983, he was appointed to the position of West Virginia Alcohol Beverage Control Commissioner and later served as Director of Budget and Administration in the Office of the Attorney General. His professional experience also included service as president and CEO of Montgomery General Hospital from 1996 through 2000.

Throughout his career in government, Senator Laird has been active in his participation on numerous boards and committees. He is a past president of the West Virginia Association of Counties and was an active member of the West Virginia Sheriffs' Association for many years. He is a former member of the West Virginia Lottery Commission and previously served as chairman of the Governor's Committee on Crime, Delinquency and Correction, and as a member of the Domestic Violence Fatality Review Team.

Senator Laird received his undergraduate degree in political science from Concord College and his master's degree from Marshall University.

Similar to the assertion by former House Speaker Tip O'Neill that "all politics is local," it can indeed be argued that many, if not most, of the activities of government more directly affecting the quality of life in our communities are performed by our local units of government. While my current service in the State Senate requires me to be more global in my thinking and work on a number of issues of interest to our citizens, my 16 years as Sheriff of Fayette County shall always remain the foundation for my values and beliefs about the important role of government in the daily lives of others. Since local government is the closest government to the people, we must be forever mindful of the preeminent role of our 55 counties and 232 municipalities in providing for the delivery of essential services throughout the State of West Virginia. In a very real sense, local government will always remain as the contact point for services where "the rubber meets the road."

Law enforcement and public safety have long been viewed as core governmental duties and responsibilities. While I have always had the utmost respect for our state and federal law enforcement agencies, I also recognize and understand that it is local law enforcement agencies that respond to most citizen calls for service. According to the Division of Criminal Justice Services, the distribution of certified law enforcement offices in West Virginia include 655 state troopers, 1,031 deputy sheriffs, and 1,516 city police officers. Clearly, since the advent of 911 systems throughout our state and improvements in communication protocols for receiving and dispatching emergency calls for service, law enforcement has been transformed from proactive preventive patrol to a reactive response environment. In many of the more rural areas within our state, local law enforcement agencies provide the only law enforcement response to emergency calls

received after midnight. Increased use of mutual aid agreements among many police departments has provided some measure of protection and coverage within these underserved rural areas. From the perspective of a citizen in need, it becomes inconsequential whether the color of the uniform is green, grey or blue.

From my perspective, among the most difficult challenges currently facing our local law enforcement agencies are fundamental shifts in the type and sale of certain illegal drugs, increased regional jail costs and continued patterns of domestic violence occurring within our communities. In the past five years, I have noticed a major shift toward the increased trafficking and use of prescription pain medications as the drug of choice and abuse in southern West Virginia. The illegal diversion and use of such opioids as oxycodone, morphine, hydrocodone and other narcotic pain medications has reached epidemic levels in many areas of the state. According to the Office of the Chief Medical Examiner, unintentional pharmaceutical drug overdoses have topped 300 annual deaths in the past few years and we have attained the distinction of having one of the highest per capita death rates in the nation involving this particular category of drugs. While it has yet to be proclaimed as such, I am of the strong opinion and belief that opioid addiction has become the single most serious public health problem in the state of West Virginia.

With a growing nexus between pharmaceutical drug addiction and property crimes committed to feed growing addiction rates, local law enforcement agencies will be challenged to develop new and innovative intervention strategies in order to meet this serious law enforcement and public health challenge.



The increased cost to counties and cities resulting from the establishment of our regional jail system has been well documented and publicized in recent years. In response to these increased costs that have threatened the financial stability of local governments, substantial efforts have been directed toward the establishment of community corrections programs throughout the state. At this time, a total of 18 community corrections programs provide judges and magistrates with alternative, community-based sentencing options intended to avoid the incarceration of non-violent offenders in our regional jails. Many of these programs are multi-county grants that have extended this sentencing option to most jurisdictions within our state. Through the delivery of comprehensive community-based program services at our day report centers, such as individual and group counseling, alcohol and

drug addiction counseling, adult basic education, job placement services and a variety of community work programs, we have the real potential for reducing recidivism rates and making our communities safer in the long run.

Finally, while we are indeed blessed to live in a state with a comparatively low crime rate, domestic violence remains a very serious social problem, requiring our continued vigilance and ongoing public policy attention. In the past few years, remarkable progress has been made in heightening our sensitivities for dealing with interpersonal violence occurring within the framework of the family and other relationships. The cyclical patterns of abuse evident in this conduct and behavior will continue to challenge us for many years to come. ♪



## The User Fee: Helping the Charleston Police to Better Serve Our Citizens

Brent Webster, Chief  
Charleston Police Department

Chief Brent Webster was appointed to the position of police chief in January 2005. He was hired by the City of Charleston Police Department in November 1994 and attended the Charleston Regional Police Academy #5.

Since joining the police department, Chief Webster has served as a patrol officer, bike unit member and investigator in the Criminal Investigation Division. His supervisory assignments included Patrol District Sergeant, Juvenile Division Commander, Assistant Chief of Detectives and the Chief of Detectives for the Criminal Investigation Division. He currently holds the civil service rank of Lieutenant.

Chief Webster is a graduate of West Virginia University and holds a bachelor of arts degree in political science with a minor in sociology. He also attended the Maryland Institute of Criminal Justice Polygraph Examiner's Course and is a certified polygraphist.

The Charleston Police Department is the largest municipal department in the state of West Virginia. There are currently 183 sworn officers and 21 civilian personnel employed with the agency. Police service is provided to more than 50,000 residents. Since the city is a hub for business, government and infrastructure, the daytime population greatly expands to approximately 250,000 citizens. Although most of the state is rural, there is no question that living in Charleston has an urban feel.

The Charleston Police Department has always been viewed as a progressive organization. We have a first-class training facility, and our policy and procedures manual resembles one that you would expect to find in a larger city, such as New York or Chicago. Due to the various types of calls that we must respond to, we have to be prepared for almost anything.

The Patrol Division consists of uniformed officers that answer the largest majority of 911 calls. Our department stays very busy and we

respond to more than 65,000 calls for service annually. Since these officers go from call to call, problem solving, writing reports and making arrests when necessary, there are many specialized units or divisions in place to meet special needs and demands that patrol officers cannot address. These specialized units include a Criminal Investigations Division, Metropolitan Drug Enforcement Network Team, Special Enforcement Unit, Traffic Division, Bike Unit, Swat Team and Dive Team.

Budgetary problems in 2000 and 2001 forced cutbacks on some city services. The police department was directly affected, losing 20 officers through attrition. As the department experienced turnover, there was no hiring, since we were mandated to an authorized strength of 163 sworn officers. Over time, many officers from specialized units had to be reassigned to the Patrol Division to ensure all shifts were adequately staffed. Patrol Division assignments were given priority over specialized units, since patrol work is largely reactive. As mentioned





previously, the department responds to more than 65,000 calls annually and its mission had to be met with 20 fewer officers.

I was assigned to the Criminal Investigations Division during this reduction in force, which cut the number of detectives in the unit from 21 to 14. As leaders and managers can imagine, supervisors in the detective bureau had a great deal to consider when determining which cases should be assigned for follow-up. Violent crimes were given priority and many less serious cases were not assigned, due to the detective shortage.

Many victims were displeased that their cases were not being assigned to investigators, and they often called the Mayor's office or their local councilperson to complain or express concern. Facing the same issues, many of the other division commanders had to adjust their priorities since they also had fewer personnel. The citizens of Charleston had grown accustomed to more service from the police department, and it was obvious concessions were going to have to be made because the city was as active as ever.

Mayor Danny Jones was elected in June 2003. He recognized the demand for greater police service but also realized the

financial constraints of the city. Upon consultation and planning with members of the city council, a user fee was proposed and passed in early 2004. Initially \$1 per week, the user fee is now \$2 per week and paid by every person whose normal work location is within the city of Charleston. The user fee helps fund police protection and street maintenance. Most importantly for the police department, the user fee enabled it to return to an authorized strength of 183 officers. The user fee pays the salaries and benefits of 20 officers.

I was appointed the Chief of Police in January 2005 during the early implementation of the user fee. It was clear to me that the 20 additional officers should be placed in roles that could provide the best possible customer service. As I went to community meetings and met with city leaders, the common requests were for greater visibility through walking beats and bike officers. Prostitution and street level drugs were viewed as a problem, so we increased personnel to the Special Enforcement Unit. I was even able to add more detectives to the Criminal Investigation Division.

Police service is about public safety, maintenance of order, crime prevention and a partnership with the community.

Although most crime is still opportunistic, it is vital for police leadership and our officers to be responsive to the citizens. The user fee enables the Charleston Police Department to have officers in more places at any given time, and it provides us more options to deal with public safety issues. We could accomplish our mission with 20 less officers, but thanks to the user fee, the Charleston Police Department can "protect and serve" in a more safe, efficient and effective manner. ▽



## Advantage Valley Promotes Regional Development

Mark B. Bugher, President and CEO  
Huntington Regional Chamber of Commerce

Mark Bugher retired in 2004 after over 33 years of service to the water industry, most recently as manager of the Western Division of West Virginia-American Water Company in Huntington, West Virginia. In 2005, he was named president and CEO of the Huntington Regional Chamber of Commerce after serving a year as interim president and CEO of the Charleston Chamber of Commerce and Development.

Mr. Bugher has served as president of Huntington Main Street and the Huntington Museum of Art and as board chair of the Huntington Regional Chamber of Commerce and the Huntington Area Development Council. He also has served on the board of directors of the United Way and is a member of the Tri-State Airport Authority.

He currently serves as co-chair of Advantage Valley, president of the Huntington-Ironton Empowerment Zone, and in 2008 was appointed by Governor Manchin to serve on the first Marshall Community and Technical College Board of Governors. He was named Huntington's 2005 "Citizen of the Year" by the *Huntington Herald-Dispatch*. He is a member of the United States Chamber of Commerce's "Committee of 100."

Mr. Bugher received his bachelor of science degree in marketing from Indiana University and his master of arts degree in political science from Marshall University. He served in the United States Air Force and is a Life Member of the American Water Works Association.

Over a decade ago, visionaries from Huntington and Charleston got together to talk about how the Internet could be used to market the region as "one location." Realizing that a rising tide raises all boats, and that the Huntington and Charleston markets were individually too small to get on the radar screen of many companies, they created "Advantage Valley," an organization charged with marketing the region stretching from Ashland, Kentucky, to Charleston, West Virginia. The Huntington and Charleston Metropolitan Statistical Areas together contain nearly three-quarters of a million people, enough to attract the attention of the largest of companies.

Today, Advantage Valley is supported by both the West Virginia State Legislature and business leaders throughout the Advantage Valley region. The original strategic plan for Advantage Valley was developed from a detailed study conducted by the Southern Growth Policy Board. In that study, several areas were identified as targets for development by the new organization. Those areas included regional identity, education, entrepreneurship and economic development, transportation and communications, land use and quality of life.

These were weighty issues for a fledgling organization, and priorities were developed that first targeted regional identity, education, entrepreneurship and economic development. Much has been accomplished in these areas during the past decade. The Advantage Valley name is generally known in the region, and although people may not know the exact boundaries of Advantage Valley, most seem to understand the region of the state it references. Advantage Valley was at the forefront of the issue to separate the state's community colleges from the four-year institutions and, in fact,



the legislature developed the Advantage Valley Community College Network that has served to bring the region's community colleges closer together.

In 2005 Advantage Valley was one of only six regions in the United States to receive a \$2 million Kellogg Grant to develop a program that would encourage entrepreneurial activities in the region. As a result, Advantage Valley contracted with Collaborative Strategies, Inc. to start a licensed entrepreneurial program. As a result of this program, which just ended last year, over 150 start-ups and small companies received valuable business coaching to help them succeed. At the end of the grant, the program was handed off to a private business that is still providing business coaching assistance to many of these fledgling companies.

**In 2005, Advantage Valley was one of only six regions in the United States to receive a \$2 million Kellogg Grant to develop a program that would encourage entrepreneurial activities in the region.**

One of the most innovative projects undertaken however by Advantage Valley is in the area of economic development. Several years ago, Advantage Valley approached the three major economic development organizations in the



region—the Charleston Area Alliance, the Putnam County Economic Development Authority and the Huntington Area Development Council (HADCO). When asked, each identified “getting prospects” as their foremost problem. They further informed us that because of the size of their respective organizations and communities, it was often difficult to get on the radar screen of many prospects, especially those located outside the U.S.

The three economic development authorities (EDAs) worked together to develop a strategy to target five core industries – small metal fabrication, chemical and polymers, printing, automotive, and biomedical and biotechnology. The group met with financial and business analysts with the West Virginia State Development office, and work was begun to initiate a joint trade mission to Europe. In late 2007 a joint trade mission to France, which had been identified by the West Virginia Development office as a market substantially untapped by the state, was conducted by representatives of the Charleston Area Alliance, Putnam County EDA, HADCO, the State Development

office and Advantage Valley. Dividing into two groups, the trade mission visited over 40 companies throughout France, promoting not their individual communities, but the Advantage Valley region as a place to locate a new U.S. operation. This is a mission none of the individual EDAs could have done individually, and the State Development office was very encouraged by this regional approach to marketing West Virginia.

From the success of this mission, another one was planned for 2008, targeting Italy, Switzerland, Germany and the Netherlands. The mission visited with 43 prospects in four countries, and the Advantage Valley team once again covered ground that would be out of reach to any individual economic development group.

Although it is too early to gauge the total success of these missions, prospects for the area have been generated, and it is a certainty that without these joint trade missions, those European prospects would have overlooked our region, and probably our state entirely.

As president of a regional Chamber of Commerce, I certainly understand the

importance of partnerships. I know from the experience we have had at the Huntington Regional Chamber—in creating alliances and partnerships with the Ashland Alliance in Kentucky, the Lawrence County Chamber in Ohio, and the Charleston Area Alliance—that working together on common goals is the only way to move our region and state forward. ♡



## Parkersburg's Vision Includes Downtown Revitalization

Ann E. Conageski, Development Director  
Parkersburg, West Virginia

Ann Conageski was named development director for the City of Parkersburg in June 2005. She joined the City in 2001 as the federal projects administrator, overseeing the City's Community Development Block Grant Program.

Prior to moving to Parkersburg, she worked as a program analyst for the State of Texas' Legislative Budget Board, administrative assistant to the county administrator in Muskegon, Michigan, and taught classes at the University of Texas and the Muskegon Business College.

She serves as a board member of the Parkersburg/Wood County Visitors and Convention Bureau, the Downtown Development Task Force, the Blennerhassett Foundation, the Employment and Training Committee of the Work Force Investment Board, the Rotary Club of Parkersburg and the Mid-Ohio Valley Regional Council.

She received a bachelor's degree in economics from Regis College in Weston, Massachusetts and a master's degree in economics from the University of Texas at Austin.

The City of Parkersburg has been reinventing its downtown since the 1980s, when retail establishments closed due to cultural changes in America's shopping and dining habits. The revitalization of downtown is a major priority for the City. Vibrant and prosperous downtowns help lead cities toward future growth and expansion.

Parkersburg's vision for growth and development reinforces the idea that the downtown area is the community's gathering place—the cultural, commercial and civic heart of the region. The downtown should be an inclusive urban district where people live, work and play. Revitalization in the downtown should demonstrate the community's commitment to responsible and substantial growth. A healthy and vibrant downtown will generate more income than services used, and these excess revenues will help to pay for city services outside the downtown.

Creation of a vibrant mixed-use core is essential to continued growth and vitality to the region. Parkersburg's goal for the downtown is for the area to be a place to work, live, shop and dine; it should be pedestrian-friendly; it should help to preserve the history and culture in the area; and it should serve as the community's center. Creating this vibrant mixed-use core is essential to the growth and wellbeing of Parkersburg, as well as the Mid-Ohio Valley.

Over the past several years, Parkersburg has undertaken substantial improvements toward achieving this vision, and there are many more improvements set to move forward over the next several years. Several projects of note include the nearly \$2 million in streetscape improvements done on Market Street and Fifth Street. The City is set to finish the streetscape improvements

on Fifth Street this summer. Improvements have been made to the Quincy Hill Steps and the Juliana Historic District, which lie just north of the downtown business district. The improvements in the sidewalks, lighting and other amenities are helping to achieve the goal of making the downtown a more pedestrian friendly community.

The City and the Area Roundtable's Downtown Development Task Force have brought "retail" back to the downtown by establishing a farmers' market on Market



*The farmers' market in Parkersburg, West Virginia*

Street. This market is situated in the center of government buildings and it has successfully created a gathering place for many of the over 7,000 workers in the downtown area. The goal is to take this early success and create a year-round market that will give area farmers an outlet for their products and also give residents a place to buy local. The market will continue to draw residents into the downtown.

Two future developments of note are the Riverfront Project and the establishment of a downtown campus of West Virginia University of Parkersburg on Market Street. Riverfront Park is a city park established at the convergence of the Little Kanawha and Ohio Rivers. It is a park with few amenities, but great potential. After many years of planning and study, the Riverfront Project, overseen by the U.S. Army Corps of Engineers, will start construction this summer. The first phase of construction will include adding a traffic circle to the entrance of the park; building a riverboat

landing to accommodate cruise boats, excursion ferry boats and small recreation crafts; adding tiered seating near the riverboat landing; building restrooms and expanding the parking area. Public parks can have a profound and lasting impact on investment in the downtown. The City envisions this project to be a catalyst to growth in tourism and development in the downtown. The goal of this project, funded with the help of the State of West Virginia, is to create economic opportunity in the downtown area.

area and hopefully spur additional housing and retail development. These are just a few of the positive results that may occur with the development of this campus.

During this economic downturn, cities as well as businesses are struggling to keep essential services in place for all citizens. The City of Parkersburg realizes that it is important and vital to the community to continue to pursue the downtown revitalization vision. With the support of business and community leaders and a forward-thinking mayor and city council, downtown Parkersburg will continue to grow and change into this vibrant place where people will want to live, work and play. ▽

West Virginia University at Parkersburg is looking to establish a downtown campus in the old W. T. Grant Building, which was donated to the college by the Erickson Foundation. The building is located on Market Street between 7th and 8th Streets. The influx of students, faculty and businesses to the downtown will have an electrifying effect on development and vitality to the area. It is an opportunity for the college and local businesses to collaborate on training and professional development; it will promote the vision of a mixed use in the downtown

**Parkersburg's vision for grown and development reinforces that idea that the downtown area is the community's gathering place – the cultural, commercial and civic heart of the region.**



*Parkersburg, West Virginia*



## A New Way of Thinking

Daniel J. Guida, Esq.  
Downtown Weirton Business Association

Daniel Guida is an attorney in private practice in Weirton, West Virginia. He is a founding member of the Downtown Weirton Business Association, and currently serves as its chairman. He also is a member on the West Virginia Ethics Commission's Probable Cause Review Board, appointed by Governor Joe Manchin in 2005.

Mr. Guida graduated from the Franciscan University of Steubenville, Ohio, and West Virginia University College of Law. He is admitted to practice in the State of West Virginia, Commonwealth of Pennsylvania, U.S. District Court and the U.S. Fourth Circuit Court of Appeals. Mr. Guida served as a municipal court judge for the City of Weirton from July 1995 to July 2003.

"What's the secret to success?" I asked.  
"Two words," he said.  
"Right decisions."

"How do you make right decisions?"  
"One word," he said.  
"Experience."

"And how do you get experience?"  
"Two words," he answered.  
"Wrong decisions."<sup>1</sup>

For the length of at least 25 years, experience has taught us that many cities and towns in West Virginia have made "wrong decisions" regarding development and growth. The exclusive strategy in most cities, including my own, Weirton, is the "grow-out-of-our-problem" approach, which goes something like this:

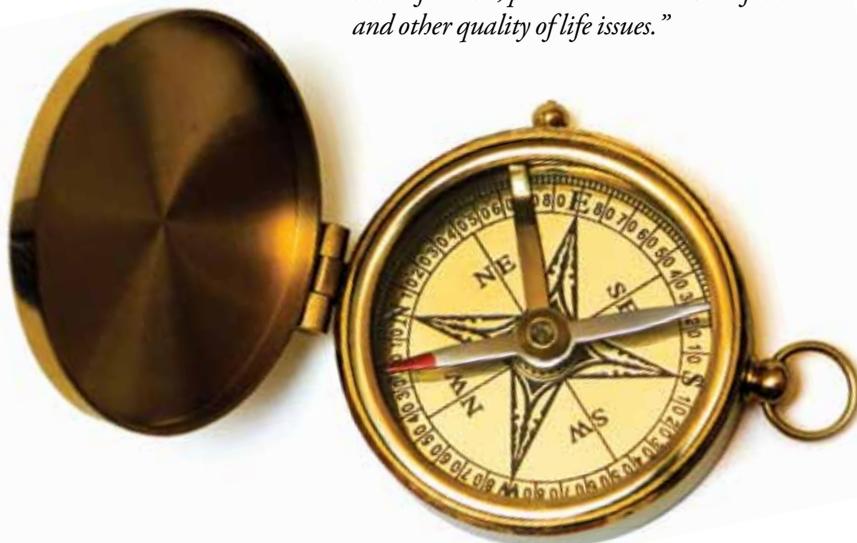
*"By employing 'business friendly' policies, we can expand our economic base through business growth and development and, in turn, enlarge our tax base.*

*Once we have the 'new' tax revenue from this economic expansion, we can turn our focused attention to taking that money and making major investments in such things such as infrastructure, beautification, parks and recreational facilities and other quality of life issues."*

This plan focuses on attracting or recruiting new businesses by being "business friendly," believing the answer to a city's problems is to "grow out" of its economic decay, simply "bending over backwards" to accommodate virtually any business that wants to obtain a business license—a tactic many believe moves that community one step closer to economic nirvana. Most "grow-out" proponents assert more quality businesses would locate in a city if local officials simply reached out more aggressively with their "business friendly" message.<sup>2</sup> The trick is just getting the word out, that's all. Hey, what else is there?

Once businesses and the community are thriving, bustling from the rewards of this campaign, major (read: costly) revitalization initiatives will follow. Until then, there is no money to address such issues, although low-budget ticket items will still be considered. Virtually every candidate running for local office (and once in office, the government official) has incorporated this mantra in one form or another into their pitch for business recruitment, along with advancing an imagined knock-out punch: low crime and low property taxes. Sadly, local government officials, predictably and in almost parrot fashion, singularly champion this strategy, ad nauseam. As Abraham Maslow famously said, "If the only tool you have is a hammer, you tend to see every problem as a nail."

Just vigorously brag the place up hither and yon with your business-friendly message, be nice and, by the way, inform prospective businesses your city has low crime and taxes. There it is: the main approach to grow a community in most parts of West Virginia for at least the past quarter century. Where to begin? We're simply kidding ourselves if we think "business friendly" tactics are enough to rejuvenate our communities. It is shortsighted to think one can discuss being "business friendly" in isolation as if nothing else exists, or influences



it. In today's world, business opportunities generally do not just happen because one wishes it so.

It is clear the exclusive use of the “grow-out” approach to revitalize our cities in West Virginia has largely been a failure, leading to wrong policy decisions and attitudes throughout the years. Many cities have lost decades stuck in neutral—at times, reverse—since everything else is on hold until a city grows its business base. As Henry David Thoreau noted, “some circumstantial evidence is very strong, as when you find a trout in the milk.” Well, here, the evidence is as strong as discovering a fish drowning in the cream—the “grow-out” approach is not working.

How long do we continue using this same failed formula before changing our approach? At what point do we quit believing that major employers with plenty of good-paying jobs in hand will locate in a distressed city with a substandard appearance? When do we end our unceasing belief that a city's problems will be solved if we're merely “business friendly”? How long do we, to paraphrase Youngstown Mayor Jay Williams, keep chasing the next “big idea” that somehow might reverse a city's decline? How long do we allow our Plan B to be nothing more than a continuation of Plan A?

When does the epiphany occur?

Initially we must acknowledge it is shortsighted to solely use the “grow-out” approach, since people and businesses have more options and more choices on where to locate. We must fully appreciate that offering a good quality of life for residents will impact and positively affect business opportunities.

The simple fact is that residents have elevated standards for parks and recreation, safety and service. Likewise, businesses search for cities with a good quality of life, since there is more opportunity to attract quality employees, and those employees

are less likely to relocate or move to another area (which translates to reduced employee turnover).

As Clemson University researchers stated:

*“Economic growth in most cities has traditionally been fostered by the location of new businesses. A highly competitive situation exists between community economic development groups who are competing to attract a smaller number of businesses.”*



*Hence, for communities to emerge from the shadows of economic decline, they must develop innovative economic development policies ... The opportunity to participate in recreational, social, and cultural opportunities in a community may be critical to the community's economic development efforts.”<sup>3</sup>*

It is not a very difficult or complicated doctrine—the better the quality of life is in

a community, the better the chances that more businesses and residents will locate or stay there.

Of course, long-term community success and vitality is built around business growth and opportunities and, yes, job creation; but quality of life is also fundamental to the process. Put another way, people must be able to earn a good living, but they also need livable communities.

What is a community to do? For openers, a community has to realize that economic development does not occur in a vacuum as if nothing else matters, and that many forces are at play. It is understanding the rules have evolved on how to grow a community's economy and what makes it attractive to prospective businesses and residents. It is embracing the notion that quality of life issues are not an expense “but an investment that produces important economic benefits.”<sup>4</sup>

Meanwhile, a community has to stop “kicking the can down the road” for the more formidable problems to someone else. The devotion by a governing body to expend virtually all of their energy addressing issues—relatively speaking—down the pecking order must end. Most of the low-hanging fruit has already been picked by previous administrations, and the use of a small step ladder will not get you to the higher-up fruit. Those issues which really can make a difference in a community, those more complex, difficult ones, cannot continue to be ignored or put-off to someone else's day. The hard issues need to be tackled today.

Inevitably this requires a community to create a vision and goals, including an allegiance to the principles advocated in this article,<sup>5</sup> implement necessary policies, grant them priority status (yielding only to public safety matters—police, fire and EMS), set benchmarks, and then make it

(continued on p. 50)



## Leadership At The Local Level

Patricia Hamilton, CAE, Executive Director  
West Virginia Association of Counties

Patti Hamilton has served as the Executive Director of the West Virginia Association of Counties since October 1997. Her work experience includes several years as a high school teacher, a small business owner and as a utilities analyst and legislative liaison for the West Virginia Public Service Commission. Ms. Hamilton is a cum laude graduate of West Virginia University and earned a master's degree in management/public administration from the West Virginia Graduate College.

She is nationally certified by the American Society of Association Executives as a "Certified Association Executive" (CAE). She currently serves as president of the National Council of County Association Executives, an affiliate of the National Association of Counties, and is a past president of the Conference of Southern County Associations (15 states). She has served as an officer and board member of the West Virginia Society of Association Executives and the West Virginia Professional Association of Lobbyists.

Accomplishments of the West Virginia Association of Counties under her tenure include the founding of the Local Government Leadership Academy, in collaboration with West Virginia University, the implementation of the WVACO Dental/Vision Benefit Plan in 2000, and the creation of the West Virginia Counties Risk Pool in 2007.

*"A leader has to lead, or otherwise he has no business in politics."*

– Harry S. Truman

*"Leadership and learning are indispensable to each other."*

– John F. Kennedy

*"My half century of public service has convinced me that leadership is not the result of genius or even natural ability. It is the result of persistence, perseverance, and hard work. To be a good leader, one must work at it."*

– Senator Robert C. Byrd

Over the dozen years that I have been executive director of the West Virginia Association of Counties, I have given a lot of thought to the qualities that make up a leader at the local level. For this article, I perused the many publications I have acquired that focus on leadership and have determined that there is no shortage of

**In other words, leaders who create positive change must challenge the expectations of their citizens, rather than meet them.**

excellent studies, research, tomes, quotes and articles on the subject. One of my main goals for the organization that represents all 442 elected county officials in the state is to apply this wealth of information and play a role in ensuring that there is no shortage of leadership in county government.

I selected the quotes that begin this article because they apply well to those who run for office. If persons have no ability nor ambition to lead, should they be in politics? Can people



be described as leaders, whether in politics or other walks of life, if they are not open and willing to learn and to work hard at it? In West Virginia, as in almost all states, there are virtually no qualifications required to be elected to office except the ability to get more people to vote for you than for the other person. Consequently, our democracy from the federal to the county level is representative, with elected officials having all levels of education, experience and a variety of different work and career backgrounds. As a further consequence, those who are elected may take office with absolutely no experience in managing employees or being in charge, much less "leading."

I am a believer, though, that while there are some innate leadership qualities, there are also skills or new perspectives that can be taught. To that end, the West Virginia Association of Counties founded the "Local Government Leadership Academy." Actually, what we found was a great partner, the West Virginia University Institute for Public Affairs. Our idea has evolved into basic core curriculum, as well as thought-provoking topics for both county and municipal officials who take their weekend time to attend classes. I like to think that we were leaders in helping to create leaders!

The National Association of Counties sponsors a County Leadership Institute, and I recently had the opportunity to be one of the 25 selected for the sixth annual class. This rigorous four-day program at New York University's Robert F. Wagner Graduate School for Public Service is specifically designed to elicit one's strengths and



*James Hunt, Clarksburg Councilman, was the lunch speaker at the Local Government Leadership Academy*



*Kevin Leyden, Political Science Professor and Director of WVU's Institute of Public Affairs, and Brenda Miller, Ohio County Circuit Clerk*

qualities of leadership for the purpose of applying the knowledge to the challenges facing county government from local, state and national levels. I learned a brand new definition of leadership there from presenter Marty Linsky, co-author of *Leadership On The Line*: “*Leadership is about disappointing your own people at a rate they can absorb.*”

In other words, leaders who create positive change must challenge the expectations of their citizens, rather than meet them. I like this perspective on leadership because it emphasizes that leadership is not about maintaining status quo but rather requires a balance, especially for those who hold public office. For an elected official, throwing too much at one time (either throwing out the old or throwing in the new) will often get one thrown out of office! If one is merely going to maintain and go with the flow, there is no need for leadership nor balance. Moving one’s citizens off of status quo, again, at a rate they can handle and accept, requires leadership.

Think of such accomplishments as new parks, improvements to elections, or community corrections and you are seeing leadership in action at the county level. And if it fails? At least they did not fail to try! Efforts in leadership will sometimes result in failure, which explains why the subtitle of Marty Linsky’s aforementioned book is *Staying Alive Through the Dangers of Leading*. Leaders at the local level are moving their citizens out of the comfort zone and, to make matters even more difficult, they have to hear about it every time they go to the grocery store!

Since this article began with quotes from others more articulate than I, it is appropriate to conclude with a quote that I believe captures the essence of leadership:

*“There are those who look at things the way they are and ask, why? I dream of things that never were and ask, why not?”*

– Robert F. Kennedy ▾



## United States Supreme Court Revises Qualified Immunity Standard

Todd C. Myers, Partner  
Bowles Rice McDavid Graff & Love LLP

Todd C. Myers is a partner in the Lexington, Kentucky office of Bowles Rice and focuses his practice on litigation and employment law. He has represented employers in a variety of matters, including civil rights and discrimination claims in state and federal courts. He also has extensive experience in municipal liability and regularly represents municipal entities throughout Kentucky in a variety of claims. Mr. Myers has an active general litigation practice, including insurance defense, professional negligence, construction litigation, motor vehicle accidents and commercial litigation.

Todd earned his law degree, cum laude, in 2000 from Northern Kentucky University Salmon P. Chase College of Law. He received a bachelor of arts degree in business administration, with an emphasis in finance, from Transylvania University in Lexington, Kentucky in 1997.

He represents clients before federal and state courts and administrative agencies throughout the Commonwealth of Kentucky. He has successfully handled jury trials and appeals on behalf of his clients. He has written, lectured and trained employers regarding various issues in employment law.

During my nearly nine years of practice, I have had the distinct honor and privilege of representing exceptional men and women who work for local government entities around the Commonwealth of Kentucky. Municipal entities, through their efforts, provide vital services such as utilities, health care, code enforcement, economic development, education, road maintenance, sanitation and police protection.

Like any person or business that interacts with other people, however, civil litigation against municipal entities sometimes occurs. Often plaintiffs file suits against city officials in their individual capacities, alleging a violation of the federal Constitution or of a federal statute. While the most publicized suits often involve law enforcement officers for such actions as excessive force or false arrest, disputes can involve city officials in other contexts, such as education, employment, health care, freedom of speech and jail conditions.

The law protects city officials from lawsuits in many instances. Most people have heard of the doctrine of sovereign immunity, which protects governmental entities. A related doctrine, known as “qualified immunity,” protects city officials from individual liability.



Under the doctrine of qualified immunity, municipal officials and employees are protected from civil liability in their individual capacities when their conduct does not violate clearly established statutory or constitutional rights.<sup>1</sup>

Qualified immunity balances two important interests – the need to hold public officials accountable for their actions and the need to shield officials from harassment, distraction and liability when they perform their duties reasonably. Put another way, qualified immunity protects mistakes in judgment.

In the past, the qualified immunity inquiry required a rigid two-step analysis according to the United States Supreme Court in *Saucier v. Katz*, 533 U.S. 194 (2001). First, a trial court had to determine whether the facts alleged showed the government official’s conduct violated a constitutional right. If so, the court had to then determine whether, in the specific context of the case, the constitutional right was clearly established.

This rigid two-step inquiry was highly criticized by scholars and judges, including several Justices of the United States Supreme Court. Justices Breyer, Ginsburg and Stevens have criticized it as an “un-wise judge-made rule under which courts must decide whether the plaintiff has alleged a constitutional violation before addressing the question whether the defendant is entitled to qualified immunity.”<sup>2</sup> Justice Breyer even declared, “I would end the failed *Saucier* experiment now.”<sup>3</sup>

The *Saucier* rule garnered criticism because it required trial courts to first decide whether the official’s conduct violated a constitutional right. Typically, this required establishing facts through discovery and perhaps even trial. Thus, the *Saucier* rule resulted in an expenditure of municipal funds and judicial resources that could have no effect on the outcome of the case when,

after applying the second step, the court may find that the constitutional right was not clearly established. Since qualified immunity is meant to provide insulation from suit rather than a mere defense, protracted litigation effectively rendered the immunity irrelevant.

The Supreme Court revised this analysis in the recent decision of *Pearson v. Callahan*, 129 S.Ct. 808 (2009). *Pearson* involved the purchase of narcotics by a confidential informant (CI) of the Central Utah Narcotics Task Force at the residence of a suspected drug dealer. After the CI made the buy, the officers moved in to make the arrest. The officers conducted a protective sweep of the premises and found a large bag of methamphetamine. The officers did not have a search warrant. Ultimately, Callahan's conviction was vacated, and he sued the police for damages.

A divided Tenth Circuit panel held that the officers were not entitled to qualified immunity because the officers violated the Fourth Amendment right to be free in one's home from unreasonable searches and arrests which was a clearly established right. A dissenting opinion argued that even if the officers violated the Fourth Amendment right to be free from a warrantless entry of police officers into one's home to effectuate an arrest, this right was not clearly established where one has granted voluntary, consensual entry to a confidential informant and engaged in criminal activity.

The U.S. Supreme Court reversed in favor of the officers, finding that the entry did not violate a clearly established right. In this case, the officers were relying on the "consent-once removed" doctrine which held that implied consent was given to

police to enter a residence if the criminal defendant previously gave undercover police officers consent to enter. The Court held that even though this was a CI rather than a undercover officer and that the "consent-once-removed" doctrine had been later disavowed, the officers could rely on it because it was a valid procedure at the time. Therefore, the criminal defendant's constitutional right was not clearly established.



The *Pearson* decision gives the lower courts flexibility when deciding the issue of qualified immunity. Courts now have the option to skip to the second step of the *Saucier* analysis and determine the issue based solely whether a clearly established constitutional right existed. In addition to avoiding unnecessary factual discovery, the *Pearson* analysis may resolve a difficult predicament for municipal officials. In

the past, the conduct of some officials was found unconstitutional by a court, but since the right was not clearly established, immunity was granted. Thus, the city official was granted immunity but left with no remedy to appeal the decision, finding that his or her conduct was unconstitutional because he or she was the prevailing party. This left the municipal official with the stigma that he or she engaged in unconstitutional conduct. Many judges and scholars have criticized this especially because lower courts at times encounter cases in which the briefing is "woefully inadequate."<sup>4</sup>

Municipal officials should be pleased with the *Pearson* decision because it gives courts greater opportunity to apply qualified immunity to municipal officials, especially in cases where the facts are unclear. Thus, courts can find immunity more expeditiously without the need to determine factual conflicts. This will serve the interests of our judicial system by weeding out litigation against officials who are trying their best to perform their duties where the law is not clearly defined. Hopefully, this will assist our local government officials to devote more time to their public service rather than expending the time and expense in defending frivolous lawsuits. ▽

Notes:

<sup>1</sup>*Harlow v. Fitzgerald*, 457 U.S. 800 (1982)

<sup>2</sup>*Bunting v. Mellen*, 541 U.S. 1019 (2004).

<sup>3</sup>*Morse v. Frederick*, 551 U.S. 393 (2007).

<sup>4</sup>*Lyons v. Xenia*, 417 F.3d 565 (6th Cir. 2005).



## Public Employers, the Constitution and the First Amendment

John R. Teare, Jr., Partner  
Bowles Rice McDavid Graff & Love LLP

John Teare is a partner in the Charleston office of Bowles Rice. His primary practice areas include employment matters, general civil litigation and issues related to the manufactured housing industry. He also has a significant practice related to the defense of law enforcement officers and agencies, as well as police civil service matters. He has been an instructor for the Charleston Regional Police Academy and has served on a subcommittee of the West Virginia Law Enforcement Training Committee.

Mr. Teare is a former Director of the Charleston Public Safety Council, served as Chairman of the Police Needs Task Force and is a former Chairman of the Charleston Chamber of Commerce Public Safety Commission, counsel to the Kanawha County Public Safety Council. He is also an instructor for the Charleston Regional Police Academy and Charleston Police Citizen's Academy.

John is a panelist and presenter at seminars discussing law enforcement, management issues and provides on-site training for employers on harassment and discrimination issues. He is a member of the Fraternal Order of Police and served as a city police officer in Dover, Delaware from 1977 to 1985.

John graduated first in his police academy class, earned his bachelor of science degree in criminal justice, summa cum laude, from Wilmington College and received his law degree, cum laude, from The T. C. Williams School of Law at the University of Richmond. He completed the Trial Advocacy Institute at the University of Virginia in 1996.

Public employers are subject to many of the same statutory and common law limitations which regulate the employment relationship in the private sector. In addition, each public employer is also bound by the Fourteenth Amendment to the United States Constitution which provides, in relevant part:

*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*

For purposes of the Fourteenth Amendment, "State" includes any subdivision, entity or authority created by the state and exercising the power of the State.

The Fourteenth Amendment is thus applicable, for instance, to cities, counties, public schools, public libraries, law enforcement agencies, courts, and their agents and employees while exercising the authority of the State, whether that authority is exercised lawfully or unlawfully.

In *Gitlow v. New York*, 268 U.S. 652 (1925), the United States Supreme Court ruled that the Fourteenth Amendment to the U.S. Constitution had extended the reach of certain provisions of the First Amendment—specifically the provisions protecting freedom of speech and freedom of the press—to the governments of the individual states. Many of the provisions of the *Bill of Rights* are applicable to local governmental bodies through selective incorporation through the Fourteenth Amendment. This article will focus on the First Amendment.

A public employee by necessity must accept certain limitations on his or her freedom.

Public employers, like private employers, need to be able manage their employees and exercise a significant degree of control over their employees' words and actions in order to efficiently serve the public interest. The Supreme Court has recognized that the public employer has an interest in the efficient and orderly operation of its affairs that must be balanced with the public employee's right to free speech and noted that the First Amendment cannot be used to turn every grievance into a constitutional issue.

For an employee's speech to be constitutionally protected, the employee must speak as a citizen on a matter of public concern. In 2006 the Supreme Court held that when public employees make statements pursuant to their official duties, the *employees are not speaking as citizens for First Amendment purposes*, and the Constitution does not insulate their communications from employer discipline. *Syllabus, Garcetti v. Ceballos*, 547 U.S. 410 (2006). The *Garcetti* Court further noted that: "Restricting speech that owes its existence to a public employee's professional responsibilities does not infringe any liberties the employee might have enjoyed as a private citizen. It simply reflects the exercise of employer control over what the employer itself has commissioned or created." *Id.* at 421-422 Speech affecting only an employee's personal interests are not protected by the First Amendment. Whether an employee's speech addresses a matter of public concern must be determined by the content, form and context of the statement.

When an employee speaks on a matter of public concern, his or her speech is not protected if it is made with the knowledge that the statements were false or with reckless disregard of whether they were false. In



addition, statements made about persons with whom there are close personal contacts that would disrupt discipline or harmony among co-workers or destroy personal loyalty and confidence may not be protected.

Finally, courts are continually balancing competing interests in public employee free speech cases to determine whether the speech must be tolerated, even if it would undermine the management prerogative of the public employer. The balancing of these competing interests is often a difficult task, driven by specific facts and evolving law. Serious questions arise regarding whether specific comments raise issues of public concern or simply private interests and whether the employee is speaking as a citizen or as an employee.

Because of the availability of a cause of action under 42 U.S.C. §1983 and prevailing plaintiff attorneys' fees under 42 U.S.C §1988, the application of the general principles discussed in

this article to specific facts should, as a matter of informed risk avoidance, involve consultation with legal counsel knowledgeable in the subject matter in your specific jurisdiction before disciplining any employee based upon public commentary. ▽

## Lessons Learned in Kentucky

(continued from p. 11)

**Miller:** Many offices were eliminated: one police chief, one fire chief, one parks director, one director of engineering, and others, but no one actually lost a job. Some senior people retired, and others were demoted without losing salary. Jobs were phased out by attrition. Generally, city employees were better paid and better trained than those in the county, and we (council members and the mayor) underwent a laborious process of adjusting pay scales and grades in all the departments. The cooperation of elected officials was high and enabled us to get through this difficult task in about two years.

### What was the city able to achieve through a metro government that it could not achieve by coordination or cooperation?

**Abramson:** One clear voice of a local-government CEO—that's been the most substantial impact. It has been relevant in varied arenas—from working with the governor, state legislature and members of Congress on top priorities ... to partnerships with local businesses ... to collaboration with our private sector and other agencies on projects like our 4,000-acre City of Parks expansion. In recent months, it's enabled Louisville to hit the ground running with a coordinated community-wide plan for federal economic stimulus dollars.

**Miller:** The new government was soon able to provide improved fire and police protection to its residents because there were no longer peculiar boundaries between the old jurisdictions, and it was able to hire new police officers. It was able to overcome the poor health environment by getting rid of malfunctioning septic tanks that were spreading raw sewage in the county subdivisions. This entailed constructing a large network of sanitary sewer systems throughout the built-up sections of the county. Merged government was also able to implement one-stop planning and zoning, building inspection and permitting services with consistent standards countywide. Businesses and developers knew where to get their various permits and could be sure that there was one set of rules for all.

### What opportunities became available to your city as a metro government that could not be achieved prior to merger?

**Abramson:** Moving up in size has given us standing and respect at the national level, including close work with the Brookings Institution and the Obama administration.



It has been more natural to collaborate with elected leaders in nearby counties—to begin to truly function as the hub of a larger bi-state metro region with 25 counties and a population of 1.4 million. And we have become a resource to dozens of communities across the nation interested in some degree of consolidated operations.

**Miller:** The combined government has a broader tax base which gave it the ability to avoid the “doughnut hole” economic problems of many cities such as a poor inner city with a low tax base and wealthy suburbs around it. Consequently, resources are available for downtown needs, although a mixed council can always disagree. Since officials are elected on a non-partisan basis, all the constituencies, Democratic and Republican, low-income and prosperous, are represented on the council and have to work together (or debate publicly) on the allocation of resources. Arguments on “moral” and ideological issues are kept to a minimum. Coalitions tend to shift on matters of taxes, environment, downtown initiatives and development. This larger umbrella has made local government more like a state than a traditional municipality.

The elimination of boundaries is also particularly helpful when one is dealing with environmental issues such as air and water quality which do not recognize lines on a map. Regional cooperation is the best approach to these issues, and merger is one step toward regionalism.

### Do the smaller communities have a voice in the new metro government?

**Abramson:** All their citizens are eligible to vote for Louisville's mayor and all can vote for representatives on our Metro Council. While small suburban cities are part of Louisville, they also retain their status as separate entities.

We also work with suburban city mayors. I talk with them regularly and I have a special liaison who stays in regular contact. Occasionally we collaborate on projects – like splitting the expense of new sidewalks, benches and landscaping in commercial areas.

**Miller:** Fortunately our county does not have small cities within its borders. Neighborhoods and rural communities have a voice through their District Councilperson. The Council Districts were drawn so as to provide representation for 2-3 minority members and one member from the rural area.

### **Has metro government been a success in your community?**

**Abramson:** Yes. For all the reasons I've mentioned and then some. It's also raised pride and brought together our residents to appreciate the community's diversity and tremendous potential.

**Miller:** Yes, there is no question that merged government is a success in our community. There is no move to turn it around. It gives the local government resources and tools it never had, provides better services, and is more representative of the diverse constituencies in the population than either the former county or city governments. Of course, it is still a government of human beings.

### **Do you have any advice to cities and counties who are considering the process?**

**Abramson:** First, understand that it's not an all-or-nothing proposition. Consider the ways in which you can collaborate and consolidate operations short of merger.

Second, take stock of your resources in selling the idea to your community – both financial resources and human resources. You need strong advocates with credibility.

Third, be prepared to invest in unglamorous aspects of consolidation ... like new software and financial systems.

But never lose sight of the bold goals ... the big dreams ... that can move your community forward.

**Miller:** Anyone embarking on this journey should examine the road taken by others—the successes and failures, the leaders and the opponents and their strengths. The process of writing a Charter to present to the voters for their approval is critically important, and steps must be taken at that point to find compromise on the most sensitive issues. The Charter Commission for Lexington-Fayette County was particularly prescient and wise on the tax questions which concerned our residents, and that Charter should be studied by others. Very few communities succeed on the first try, but merged government is worth the effort. ▽

## **Metro Government and Smaller Municipalities**

(continued from p. 7)

presenting stronger demographics. To continue the example of Charleston and Kanawha County, Charleston metro would become 200,000 people with more diversity because the entire county is included. A city metro government of 200,000 speaks volumes when compared to a city of 50,000. Size matters in the national and global economy. The better the metro economy does, the stronger the smaller surrounding municipalities. Industry is recruited at the metro level, not through individual municipalities. In many ways, this gives greater opportunities both for the municipalities, as well as the unincorporated areas. Residents can choose to live anywhere in the metro area and can make their decision based on the services they want to receive and the taxes they are willing to pay. At the same time, the identity of the municipalities and unincorporated areas stays intact. South Charleston remains in place with its high level of services, as does Cross Lanes with less service but more independence. The metro area can grow, but small town conveniences and sensibilities stay in place and are nurtured.

Perhaps the most important product of a city-county metro government is the “can-do” attitude of its residents upon a successful consolidation. No one challenges the difficulty of conceiving and implementing a functional consolidation of city and county government. However, in those cases where it has occurred, the metro area almost immediately became a player in the national economy. Louisville's recent success is well known to those of us in West Virginia. Another example is Indianapolis. Who would have guessed that within 20 years of its city-county government consolidation, Indianapolis would snatch the NFL franchise away from Maryland's largest city, with the Baltimore Colts becoming the Indianapolis Colts?

What does the future hold for West Virginia's cities and counties? We do not have to wait and see. We have a chance to create our future. Metro government may be one of the best tools, while at the same time allowing us to preserve the unique heritage found in our small towns and municipalities. We are all in this together. If we look creatively at the possibilities of a thoughtfully conceived and carefully implemented city-county government, we can compete at the national level without giving up our identity and lifestyles. Yes, smaller municipalities can benefit from metro government. ▽

## Morgantown's Planning, Collaboration, Vision and Leadership: Key Ingredients for a City's Success

(continued from p. 31)

from diverse groups come together for a common purpose is the development of the waterfront in downtown Morgantown.

What was a dilapidated warehouse district is now home to not only the Caperton Trail but also WVU's University Services Center, The Waterfront Place Hotel, a handful of class A office buildings, two parking garages, several outstanding restaurants, a new 2,500-seat event center/parking garage and possibly the future home of a new farmers' market. This amazing revitalization and accompanying investment would not have occurred without the willingness of West Virginia University, the City of Morgantown and Platinum Properties to think, plan and act in concert.

The City of Morgantown was looking to enhance the use and utility of the Caperton Trail and to make it a centerpiece of activity. WVU issued an RFP, looking to centralize many of its back-office services and serve as a catalyst to bring new economic vitality to an area needing a "shot in the arm." While the first signs of development were beginning on the northern end of the waterfront, Platinum Properties began to work with the city and WVU to create the synergy that we enjoy today. Today the Waterfront is a key contributor to the area's economic vitality and the centerpiece which drives a significant portion of our tourism economy.

### Building Upon "The Beginning"

While this was the beginning, the end is not yet in sight. The new event center and garage will be dedicated in early 2010, and planning is already underway to make the proposed farmers' market a reality. The various texts guiding economic development, public administration and urban renewal pay great homage to

collaborative efforts, open and inclusive communication, strategic planning and always at the forefront, strong leadership. Morgantown has been blessed with significant amounts of these various ingredients, and I believe that we have come a long way as a city, community and region, thanks to these collective efforts. I think back to the sentiments of Governor Caperton, urging us to aspire and to think bigger than our problems at that time. Morgantown has done just that and it has served us very well. ▽

Notes:

*"Morgantown has Nation's Lowest Jobless Rate," The Associated Press, February 5, 2009.*

*"Why College Towns Are Looking Smart," The Wall Street Journal, NY, NY, March 24, 2009.*

*"In West Virginia an Economic Oasis," The NBC Nightly News, NY, NY, March 17, 2009.*

*"Once a Sleepy College Town, Morgantown MSA Can Claim Lowest Jobless Rate in the U.S.," The Journal, Martinsburg, WV, February 6, 2009.*

*"Vision 2020," (website) The Community Visions Foundation, Morgantown, WV, 2009.*

## A New Way of Thinking

(continued from p. 41)

happen by hook or by crook, swearing off the use of the phrases "we don't have the money" or "not now, it's not a good time." A community must possess a stick-to-it-iveness attitude and commitment that dictate their actions and way of thinking—a sort of guiding philosophy that permeates all decision making. A single-minded purpose ensues with everything else becoming background noise. Obviously, tough decisions will be made in the process, but who said it would be easy?

So, let us start anew, charting a new direction, a new way, a new strategy. We must find new and creative approaches to be more appealing for residents and businesses to choose to locate (or stay) in our communities. In order to have any realistic opportunity at attracting residents and bona fide businesses to locate in a community, we must offer up more than just low crime and taxes. ▽

*Editor's Note: Mr. Guida provides a more in-depth version of this article at [www.downtownweirton.com](http://www.downtownweirton.com).*

Notes

<sup>1</sup> Nichols, Tim, and Wiseman, Craig, *"Live Like You Were Dying,"* Rutledge Hill Press (2004).

<sup>2</sup> Since local officials carelessly (and almost in default fashion) use the "business friendly" catch phrase as a platitude or cliché in so many different contexts, its precise meaning is difficult to pin down—it sort of means whatever you want it to mean. But, one thing is clear: Building and zoning regulations become "not business friendly" when at odds with the wishes of a business owner. This is nonsense.

Governing bodies must require businesses to adhere to certain prescribed rules and end their ultra-sensitivity to being labeled as "not being business friendly." It is important to actively enforce existing building, property maintenance and signage codes, and to maintain the integrity of zoning classifications. Yes, at times, reasonable accommodations for prospective businesses on code enforcement or zoning issues should be made. However, quality over quantity is a better approach for building the business community, and a city should not twist every rule and regulation for each business that comes along simply because it's a business.

<sup>3</sup> Backman, Kenneth F., Ph.D. and Sheila J., Ph.D., *Retiree's Choice of Community: The Importance of Recreation and Parks,* Clemson University (1997).

<sup>4</sup> PenMet Foundation website ([www.penmetfoundation.org](http://www.penmetfoundation.org)).

<sup>5</sup> "Goals are the broadest expressions of a community's desires. Goals give direction to the plan as a whole. Goals are concerned with the long term, and often describe ideal situations that would result if all plan purposes were fully realized. Since goals are value-based, their attainment is difficult to measure.

Policies are broad statements that set preferred courses of action. Policies are choices made to carry out the goals in the foreseeable future. Policies need to be specific enough to help determine whether a proposed project or program would advance community values expressed in the goals.

Objectives are specific statements that carry out a plan in the short term.

Objectives are measurable benchmarks that can be used to assess incremental progress in achieving the broader purposes expressed in policies and goals." See, [www.portlandonline.com](http://www.portlandonline.com)

# NEW FACES

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**Floyd Boone**  
Charleston

Mr. Boone is a West Virginia native who recently returned to the state after practicing law in Washington, D.C. for several years. He is a member of the Bowles Rice litigation group in the firm's Charleston office and his practice focuses on class actions, toxic torts, product liability, electronic discovery and financial services litigation.



**Jared M. Adams**  
Martinsburg

Mr. Adams recently joined the litigation group in the Martinsburg, West Virginia, office of Bowles Rice. His practice focuses on matters of civil litigation, insurance coverage and toxic torts. He is licensed to practice law in the states of West Virginia and Maryland.



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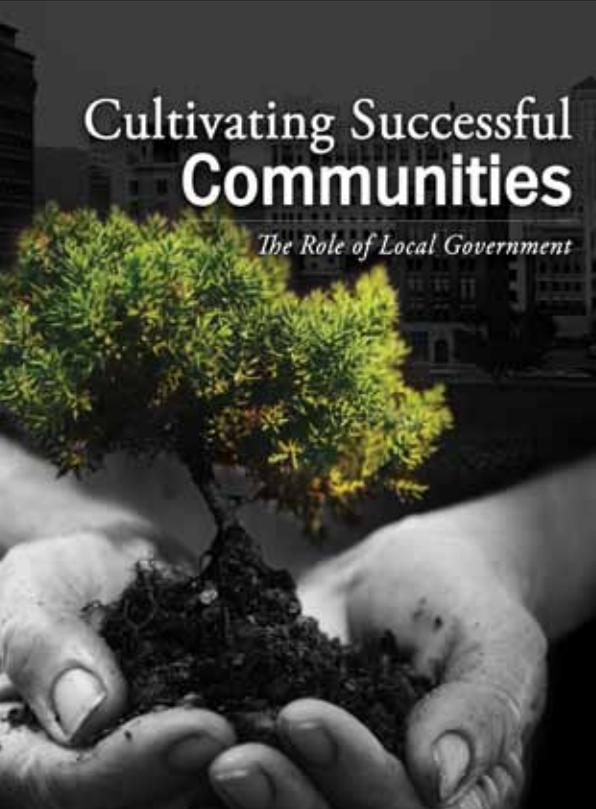
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